SENATE.

TUESDAY, *February 21, 1905.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings.

Mr. SPOONER. I ask unanimous consent that the further reading of the Journal be dispensed with.

The PRESIDENT pro tempore. Is there objection?

Mr. SCOTT. I observe by the Calendar that the Senator from Pennsylvania [Mr. PENROSE] gave notice that he would call up the post-office appropriation bill on Thursday. He gave notice for Wednesday. I think the Journal and the RECORD should be corrected.

The PRESIDENT pro tempore. The Senator from Pennsylvania informed the clerks that he had changed the date.

Mr. SCOTT. Then it is all right.

The PRESIDENT pro tempore. The Journal will stand approved, if there be no objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed a bill (H. R. 18467) making appropriations for the naval service for the fiscal year ending June 30, 1906, and for other purposes, in which it requested the concurrence of the Senate.

The message also communicated to the Senate the intelligence of the death of Hon. NORTON P. OTIS, late a Representative from the State of New York, and transmitted resolutions of the House thereon.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President pro tempore:

H. R. 8834. An act granting an increase of pension to Joseph H. Richardson;

H. R. 9548. An act for the allowance of certain claims reported by the Court of Claims, and for other purposes;

H. R. 12479. An act granting an increase of pension to Lucretia T. Cartmell;

H. R. 13626. An act to amend an act approved August 13, 1894, entitled "An act for the protection of persons furnishing materials and labor for the construction of public works;"

H. R. 14575. An act granting an increase of pension to Laura P. Swentzel;

H. R. 15489. An act granting an increase of pension to Oliver F. Martin;

H. R. 15718. An act granting an increase of pension to James Parmele;

H. R. 16398. An act granting an increase of pension to Michael Keating;

H. R. 16629. An act granting an increase of pension to Nathan C. D. Bond;

H. R. 16686. An act granting an increase of pension to Benjamin T. Martin;

H. R. 16859. An act granting an increase of pension to James Shaw;

H. R. 16961. An act granting an increase of pension to Lydia McCardell;

H. R. 17411. An act granting an increase of pension to Abel Grovenor;

H. R. 18187. An act granting an increase of pension to William W. Moore;

H. R. 18188. An act granting an increase of pension to William Mock;

H. R. 18512. An act granting a pension to Mary O'Dea; and

H. J. Res. 216. Joint resolution providing for the publication of the annual reports and bulletins of the hygienic laboratory and of the yellow-fever institute of the Public Health and Marine-Hospital Service.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a concurrent resolution of the legislature of Kansas, relative to the repeal of the blanket lease, and known as the "Foster lease," for the use of the oil and gas of the Osage Indian Reservation; which was referred to the Committee on Interstate Commerce, and ordered to be printed in the RECORD, as follows:

[Telegram.]

TOPEKA, KANS., *February 20, 1905.*

The PRESIDENT OF THE SENATE,
Washington, D. C.:

The following concurrent resolution passed the senate and house of representatives to-day: Senate concurrent resolution No. 18, by Senator Fitzpatrick.

Whereas the Standard Oil Company has a blanket lease for oil and gas of the Osage Indian Reservation, known as the "Foster lease," which, if it continues to hold, will make it able to destroy private producers and drive them out of business; and

Whereas the Secretary of the Interior declared in public prints that this lease, which is commonly known as the "Foster lease," passed into the control and ownership of the Standard Oil Company by fraud; and

Whereas the Secretary of the Interior has consented, under protest, to renew to the Standard Oil Company or its agents and representatives the lease of nearly 700,000 acres of this land; and

Whereas the 700,000 acres he has selected is in the heart and body of the oil and gas portion of the reservation, leaving for individual lessees or purchasers only pasture land; and

Whereas the said 700,000 acres is the richest portion of the western oil field and its continued use and development by the Standard Oil Company would add to the power of that company to annihilate other production; and

Whereas the Standard Oil Company has been declared by public opinion to be an outlaw and by its tyrannical practices and unfair competition the enemy of honest commerce: Therefore be it

Resolved by the senate of the State of Kansas (the house concurring therein), That the President, the Secretary of the Interior, and the Congress of the United States be, and they are hereby, requested to hold up and annul the said "Foster lease" in whole, which the Secretary of the Interior has declared in public statement was originally obtained by fraud.

Resolved further, That copies of this memorial be telegraphed by the president of the State senate and the speaker of the house to the President of the United States, the Secretary of the Interior the President of the Senate and the Speaker of the House, the Hon. CHESTER I. LONG and the Hon. P. P. CAMPBELL, and that Senator LONG and Representative CAMPBELL give it as wide publicity as possible.

Resolved further, Especially addressing the Kansas delegation in Congress, that this is a contest of the honest industry of the land against insolent greed and commercial outlawry, and it is the duty of all men who hold office by the suffrage of the people of Kansas to help in a war which their State has first declared by legislative action.

D. J. HANNA, *Lieutenant-Governor.*
W. R. STUBBS, *Speaker of the House.*

The PRESIDENT pro tempore presented a petition of sundry citizens of Brownsville, Tex., praying for the passage of the so-called Littlefield antipilotage bill; which was referred to the Committee on Commerce.

Mr. QUARLES presented memorials of sundry citizens of Gibraltar and New London, in the State of Wisconsin, remonstrating against the enactment of legislation requiring the closing of certain places of business in the District of Columbia on Sundays; which were referred to the Committee on the District of Columbia.

He also presented a petition of the Wisconsin Pharmaceutical Association, of Milwaukee, Wis., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

He also presented a memorial of the Chamber of Commerce of Milwaukee, Wis., remonstrating against the enactment of legislation to prohibit the trading or dealing in options and futures; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Local Division No. 1, Ancient Order of Hibernians, of Milwaukee, Wis., praying for the enactment of legislation providing for the erection of a monument in the city of Washington to Commodore John Barry; which was referred to the Committee on the Library.

He also presented a petition of Baraboo Division, No. 176, Brotherhood of Locomotive Engineers, of Baraboo, Wis., and a petition of P. H. Sheridan Lodge, No. 388, Brotherhood of Locomotive Firemen, of Milwaukee, Wis., praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

He also presented petitions of the Merchants and Manufacturers' Association of Milwaukee, of the Chamber of Commerce of Milwaukee, and of the Wisconsin Farmers' Convention, of Madison, all in the State of Wisconsin, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

Mr. GALLINGER presented a petition of sundry citizens of Sunapee, N. H., praying for the enactment of legislation providing for a parcel post and post-check currency; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry citizens of Brooklyn, N. Y., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings, grounds, and ships, and also to prohibit Sunday post-office banking in the issuance of money orders and the registration of letters; which was ordered to lie on the table.

He also presented a memorial of sundry farmers and gardeners of the District of Columbia, remonstrating against the enactment of legislation to place the space between Seventh and Twelfth streets, on the south side of B street NW., under the supervision of private parties; which was referred to the Committee on the District of Columbia.

Mr. FULTON presented a memorial of the legislature of Oregon, relative to the improvement of the Willamette River;

which was referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

House joint memorial No. 4.

Whereas it is of vital importance to the shipping interests and to producers in the territory tributary to the Willamette River that the said river shall be placed in a condition for free and unobstructed navigation from Eugene to Portland, Oreg., sufficient for steamers to carry freight during the entire year;

That we respectfully urge favorable action by Congress upon the Willamette River, as recommended by Maj. W. C. Langfitt, of the United States Engineers, in charge of this district, and that we earnestly request that immediate action be taken by the Congress of the United States to provide funds for the improvement of said river.

That we would recommend that an appropriation of not less than $40,000 for dredging and removing snags and other obstructions in the said Willamette River between Portland and Eugene be made at once, and that a further appropriation of $40,000 for revetment work on the banks of said river, wherever it may be necessary between Eugene and Portland, be made.

That we would further recommend that Congress appropriate at once a sufficient sum to purchase the canal and locks on the Willamette River at Oregon City, Oreg.

That a copy of these resolutions be submitted to the Speaker of the House of Representatives and to each member of the Oregon delegation with the request that they use their utmost influence to procure the above request at an early date.

Adopted by the house January 31, 1905.

A. L. MILLS,
Speaker of the House.
W. LAIR THOMPSON,
Chief Clerk of the House.

Concurred in by the senate January 31, 1905.

M. KUYKENDALL,
President of the Senate.
S. L. MOORHEAD,
Chief Clerk of the Senate.

Mr. FULTON presented a memorial of the legislature of Oregon, relative to the enactment of legislation to modify and simplify the pension laws; which was referred to the Committee on Pensions, and ordered to be printed in the RECORD, as follows:

Senate joint memorial No. 5.

To the honorable Senate and House of Representatives,
Congress of the United States.

GENTLEMEN: Your memorialists, the legislative assembly of the State of Oregon, would respectfully and earnestly represent to your honorable body that the pension granted to the veterans of the Indian wars of 1855 and 1856, to wit, $8 per month, is entirely inadequate to the deserts and the needs of the few of those noble old patriots who remain with us as living evidence of the work performed, in those days, to preserve this vast and magnificent country to the peaceful use of the white man and his family, and to protect their lives from savage massacre.

The claims of these men to national recognition and gratitude have been already passed upon and acknowledged by the nation and by the States which have been carved out of the vast empire which they defended, but in fixing their financial reward we feel that the spirit of economy was too largely the controlling influence and that, while they have the name of recognized pensioners, their stipend is entirely too small.

We therefore urge upon your honorable body the early passage of a bill granting to said veterans an increase of pension to the sum of $12 per month, and also the right to enter a tract of Government land, wherever the same can be found, to the extent of 160 acres.

The percentage of veterans now living is small. They are old and decrepit and their ranks are fast thinning out. The cost to the Government of the tardy recognition asked will be small, and the rising generation, enjoying the fruits of their early sacrifices, will feel a greater pride when the debt to them is paid.

It is hereby directed that a copy of this memorial, duly signed by the president of the senate and the speaker of the house and attested by the chief clerks of the two houses, be forthwith forwarded to each of Oregon's Senators and Representatives in Congress.

Adopted by the senate January 27, 1905.

_____ _____,
President of the Senate.

Concurred in by the house February 3, 1905.

_____ _____,
Speaker of the House.

Mr. CULLOM presented a memorial of sundry citizens of Illinois, remonstrating against the ratification of the treaty ceding the Isle of Pines to Cuba; which was referred to the Committee on Foreign Relations.

He also presented a petition of sundry citizens of Illinois, praying for the enactment of legislation to increase the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

Mr. CLARK of Wyoming presented a memorial of sundry citizens of Uinta County, Wyo., remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which was referred to the Committee on the District of Columbia.

Mr. BARD. I present numerous protests from the Pine Ridge, Rosebud, and Crow Creek Indians, South Dakota, remonstrating against the use of their trust funds for sectarian or denominational schools; also protests signed by Rev. Edward Abbott and others, of Clifton Springs, N. Y., against the use of Indian trust funds for the support of sectarian schools; also letters making a like protest from Rev. George W. Gutterson, district secretary American Missionary Association, of Boston, Mass., and others.

These protests from the Indians, together with those heretofore presented to the House of Representatives, are from 935 Indians of the Sioux tribes, who have protested against the use of any portion of their trust funds for sectarian schools. I move that the memorials lie on the table and be printed as a document.

The motion was agreed to.

Mr. GAMBLE presented the memorial of George R. Freeman and sundry other citizens of Elk Point, S. Dak., remonstrating against the passage at the present session of Congress of the so-called "Townsend railroad-rate bill;" which was referred to the committee on Interstate Commerce.

He also presented a petition of the members of the fire department of Deadwood, S. Dak., praying for the adoption of a certain amendment to the so-called "Morrill bill," relative to placing insurance corporations under Federal control; which was referred to the Committee on the Judiciary.

Mr. DOLLIVER presented a petition of the Corn Belt Meat Producers' Association, of Ida County, Iowa, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of sundry citizens of Ames, Iowa, praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

Mr. BEVERIDGE presented a petition of Post G, Travelers' Protective Association, of Terre Haute, Ind., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of Local Union No. 203, American Federation of Musicians, of Hammond, Ind., praying for the enactment of legislation to increase the salaries of members of the Marine Band and to prohibit that organization from entering into competition with civilian musicians; which was referred to the Committee on Naval Affairs.

He also presented a petition of sundry members of the bar of Clay County, Ind., praying for the enactment of legislation providing for the establishment of four terms of the Federal court at Terre Haute, in that State; which was referred to the Committee on the Judiciary.

Mr. LONG presented a concurrent resolution of the legislature of Kansas, relative to the enactment of legislation providing for the control of the Standard Oil Company and for the protection of the oil industry in that State; which was ordered to lie on the table and to be printed in the RECORD, as follows:

STATE OF KANSAS, *Office of the Secretary of State.*

I, J. R. Burrow, secretary of state of the State of Kansas, do hereby certify that the following and annexed is a true and correct copy of the original enrolled house concurrent resolution No. 21, now on file in my office.

In testimony whereof I have hereunto subscribed my name and affixed my official seal. Done at Topeka, Kans., this 18th day of February, 1905.

[SEAL.]

J. R. BURROW,
Secretary of State,
By WILL V. WILSON,
Assistant Secretary of State.

House concurrent resolution No. 21.

Resolved by the house of representatives of the State of Kansas, the senate thereof concurring therein, That our Representatives in Congress be requested and our Senators directed to prepare, urge, and perfect such national legislation as will control the Standard Oil Company and protect the oil industry in Kansas from destruction by the greatest monopoly the world has ever known.

I hereby certify that the above concurrent resolution originated in the house, and passed that body February 15, 1905.

W. R. STUBBS,
Speaker of the House.
F. W. KNAPP,
Chief Clerk of the House.

Passed the senate February 16, 1905.

D. J. HANNA,
President of the Senate.
A. J. HOISINGTON,
Assistant Secretary of the Senate.

Mr. LONG presented a petition of sundry citizens of Leavenworth, Kans., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a petition of Oak Grange, No. 665, Patrons of Husbandry, of Topeka, Kans., praying for the enactment of legislation providing for the establishment of a rural parcels post; which was referred to the Committee on Post-Offices and Post Roads.

He also presented a petition of the State Temperance Union of Kansas, praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

RAILROAD-RATE BILL.

Mr. CARMACK. I present petitions of sundry citizens of Tennessee, relative to the railroad-rate bill; which I ask be referred to the Committee on Interstate Commerce.

Mr. BERRY. I should like to ask the Senator from Tennessee a question in regard to those petitions. The Senator is a member of the Interstate Commerce Committee?

Mr. CARMACK. Yes, sir.

Mr. BERRY. I have a number of letters and telegrams from my State inquiring whether it is probable that either the House bill or any bill on the question of increasing the powers of the Interstate Commerce Commission will be reported at the present session. I should like to ask the Senator from Tennessee if he can give me any information on that subject?

Mr. CARMACK. I suppose I had better let the Senator from West Virginia [Mr. ELKINS], the chairman of the committee, make a statement in regard to the matter, if he desires to do so.

Mr. ELKINS. Mr. President, on the subject of the rate-making bill which is attracting wide attention and about which inquiry has been made by the Senator from Arkansas, I would state that the House bill known as the Esch-Townsend bill was passed by that body and reached the Senate about ten days ago; that since that date and before the Committee on Interstate Commerce has had almost constant sessions in the way of hearings, and that up to to-day there has been but one hearing on the side, if you please, of the opposition to the bill. I may state it more clearly by saying on the side of the railroads. There are a number of parties representing the railroad companies who have consented or who have been summoned to appear at the instance of members of the committee and Senators during this week, and especially on Thursday. The committee adjourned this morning until Thursday to have a further hearing.

The committee has given the best attention to this great subject it possibly could under existing circumstances, and with the crowded and congested condition of business now before the Senate. The bill which came from the House has not been considered with reference to amending it. I do not know what the judgment of the individual members of the committee will be on this bill. We have not reached any conclusion. There are five or six amendments pending which will have to be considered before we can report the bill.

The committee has not reached a conclusion as to whether it is possible to report a bill at the present session. It feels, however, that the chances to report and pass any bill at the present session are very doubtful. We have now nine or ten working days of the present session of Congress left. We have to conclude the impeachment trial now before the Senate, which will take two or three days; besides, we have six or seven of the great appropriation bills to be considered, and members of the Interstate Commerce Committee have conspicuous places on most of the working committees of the Senate. So it would seem hardly probable that the committee in this limited time could pass upon and perfect the House bill or frame a bill on the most important economic subject that has ever been presented to Congress. The subject is so vast, so important, so far-reaching, and affects so many interests that the committee feels that the most careful consideration should be given to it before reaching a conclusion. It is agreed on all sides that some proper legislation should follow the President's recommendation on the rate-making question, and if there is time enough the committee will report some bill.

Letters and petitions are reaching the committee and individual members thereof from all over the country. I believe a majority of the late messages and letters are to the effect that hasty legislation under all the circumstances is not desirable; that the committee had better take time and have a proper and well-considered bill, fair and just to all interests, than an imperfect bill. I believe the preponderance of the requests are in this direction.

The committee at the beginning of the session went forward with the hearings with a hearty and determined purpose to frame and report a bill at this session and believed this could be done. When it became apparent the House would first perfect a bill, the committee felt authorized to wait for the House bill, but continued the hearings constantly and without delay or intermission, and they have been continuous. The private car system, which bears indirectly upon this subject, has taken up a great deal of the time of the committee, a bill having been introduced on this subject by myself with a view to correcting certain alleged abuses and evils. Up to this time, however, only one side has been heard on this question, although parties interested in private cars have been waiting for a hearing and opportunity to answer the other side for more than three weeks.

The committee finds itself in this position. It has had continuous sessions, worked hard, and heard one side, for two months, or since the present session of Congress began, asking for rate legislation and giving their reasons. While the committee has heard but one party on the other side up to this time, it feels that it is only just and fair to hear both sides before reaching a conclusion. Under these circumstances and for these reasons the committee has found it impossible as yet to properly consider and report a bill, believing that on the important and difficult questions raised before the committee, legal and otherwise, there ought to be further hearings and further consideration of the question.

Now, this is the status of the bill before the Interstate Commerce Committee and the situation. We have been considering another bill, the Quarles-Cooper bill, but when the House sent over its bill we took it up, and the hearings have been directed more particularly to this bill. It is proper to state, however, that some members of the committee have favored and urged reporting the Esch-Townsend bill to the Senate without amendment, leaving the perfecting of the measure to the Senate itself, but the prevailing opinion in the committee is that additional time and more careful consideration are necessary in order that whatever legislation is passed may fully cover all the questions involved.

Mr. TELLER. I should like to ask the Senator a question.

The PRESIDENT pro tempore. This debate is entirely out of order.

Mr. CARMACK. Mr. President, I should like to have permission to make just a brief statement, as this matter arose on the petitions which I presented.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Tennessee? The Chair hears none. The Senator from Tennessee will proceed.

Mr. CARMACK. I wish to say, Mr. President, that while I am only a minority member of the Committee on Interstate Commerce the joyous harmony which prevails in that body has so obliterated party lines that I feel I can speak with authority for all its members. I can assure the Senator from Arkansas that the entire committee, from the chairman down to myself, are stung by a keen desire to execute at the earliest possible moment the promises which the President of the United States made to the country in the last campaign through the medium of the Democratic platform.

The whole committee, without any exception, I can say to the Senator from Arkansas, in a general way, intend to be guided by the wisdom of the President in this matter, and I am authorized by the chairman to say (and he can correct me if I am wrong) that we will follow his leadership with all the more enthusiasm because we recognize in him the foremost disciple and the ablest lieutenant of William J. Bryan.

The PRESIDENT pro tempore. The petitions will be referred to the Committee on Interstate Commerce.

DISCRIMINATING DUTIES.

Mr. GALLINGER. I present a brief paper relating to discriminating duties. I think it will prove interesting, and I move that it be printed as a document.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 18396) granting an increase of pension to Louvenia Clark;

A bill (H. R. 18389) granting an increase of pension to Francis A. Tabor;

A bill (H. R. 18391) granting an increase of pension to Ephraim F. Hays;

A bill (H. R. 17804) granting an increase of pension to Francis W. Edgerly; and

A bill (H. R. 18394) granting an increase of pension to George W. Drye.

Mr. SMOOT, from the Committee on Pensions, to whom was referred the bill (H. R. 18019) granting an increase of pension to Hannah E. Codington, reported it with an amendment, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (H. R. 15629) granting a pension to Walter Elkan, alias Walter Eckhardt, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 18631) granting an increase of pension to Henry D. Fulton;

A bill (H. R. 8352) granting an increase of pension to John Salsbury;

A bill (H. R. 13756) granting a pension to Mary A. Shaw;
A bill (H. R. 18113) granting an increase of pension to William Bottenberg;
A bill (H. R. 18372) granting an increase of pension to Chapman Mann;
A bill (H. R. 18697) granting an increase of pension to Jordan Garrett, now known as Jordan Freeman;
A bill (H. R. 18629) granting an increase of pension to Sarah A. Rowe; and
A bill (H. R. 18628) granting an increase of pension to Anthony Weaver.

Mr. CLARK of Wyoming, from the Committee on Indian Affairs, to whom was referred the bill (H. R. 17994) to ratify and amend an agreement with the Indians residing on the Shoshone or Wind River Indian Reservation, in the State of Wyoming, and to make appropriations for carrying the same into effect, reported it with amendments, and submitted a report thereon.

Mr. BURNHAM, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:
A bill (H. R. 18089) granting a pension to Abby E. Burritt;
A bill (H. R. 17205) granting an increase of pension to Patrick Haley;
A bill (H. R. 18220) granting an increase of pension to Mary Cushing Hall;
A bill (H. R. 18309) granting an increase of pension to William H. Washburn;
A bill (H. R. 18132) granting an increase of pension to Daniel J. Meeds;
A bill (H. R. 18116) granting an increase of pension to Abram H. Bedell;
A bill (H. R. 18083) granting an increase of pension to Philip Chace;
A bill (H. R. 18090) granting an increase of pension to John Clougharty;
A bill (H. R. 18082) granting an increase of pension to John Brown; and
A bill (H. R. 12810) granting an increase of pension to Octavia J. Trull.

Mr. GORMAN, from the Committee on Finance, to whom were referred the following bills, reported them severally without amendment:
A bill (H. R. 18285) fixing the status of merchandise coming into the United States from the Canal Zone, Isthmus of Panama; and
A bill (H. R. 14522) directing the issue of a check in lieu of a lost check drawn by Col. John V. Furey, assistant quartermaster-general, United States Army, in favor of John Wanamaker.

Mr. TALIAFERRO, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:
A bill (H. R. 18319) granting an increase of pension to Green B. Waller;
A bill (H. R. 18339) granting an increase of pension to Lot Leguin Godfrey;
A bill (H. R. 18340) granting an increase of pension to Augustus Gralen;
A bill (H. R. 18779) granting an increase of pension to Israel N. Green; and
A bill (H. R. 18433) granting an increase of pension to Bethel Coopwood.

Mr. GIBSON, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:
A bill (H. R. 18386) granting an increase of pension to Zacharia Hall;
A bill (H. R. 17914) granting a pension to Maria W. Shaul;
A bill (H. R. 17811) granting an increase of pension to John G. Penrose;
A bill (H. R. 18383) granting an increase of pension to James H. Phelps; and
A bill (H. R. 18479) granting a pension to Hettie Fletcher.

Mr. BALL from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:
A bill (H. R. 18135) granting an increase of pension to Jemima Rosencrans;
A bill (H. R. 18621) granting a pension to Louise M. Atkins;
A bill (H. R. 9059) granting a pension to Cephas W. Parr;
A bill (H. R. 18370) granting an increase of pension to Mary Casey;
A bill (H. R. 18684) granting an increase of pension to Margaret L. Hance; and
A bill (H. R. 18438) granting an increase of pension to Catharine Loxley.

Mr. DANIEL, from the Committee on Finance, to whom was referred the bill (H. R. 16584) for the relief of the Monongahela Iron and Steel Company, of Pittsburg, Pa., reported it without amendment, and submitted a report thereon.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:
A bill (H. R. 16725) granting an increase of pension to Gates D. Parish;
A. bill (H. R. 18322) granting a pension to Josephine Drinkwater;
A bill (H. R. 18357) granting an increase of pension to George N. Ward;
A bill (H. R. 18364) granting a pension to Sophronia E. Wilshire;
A bill (H. R. 18760) granting an increase of pension to William M. Short; and
A bill (H. R. 18556) granting a pension to Lovina Stokes.

Mr. SPOONER, from the Committee on Finance, to whom was referred the bill (H. R. 16646) to amend section 2787 of the Revised Statutes of the United States, reported it without amendment, and submitted a report thereon.

Mr. PATTERSON, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:
A bill (H. R. 17621) granting a pension to George H. Barrows;
A bill (H. R. 17418) granting an increase of pension to Margaret J. Valentine;
A bill (H. R. 17716) granting an increase of pension to William B. White;
A bill (H. R. 17691) granting an increase of pension to Andrew J. Brann;
A bill (H. R. 17819) granting an increase of pension to Robert W. Callahan;
A bill (H. R. 18264) granting an increase of pension to Frank Schumer;
A bill (H. R. 18194) granting an increase of pension to William H. Lybe;
A bill (H. R. 18077) granting an increase of pension to Jacob Koonsman;
A bill (H. R. 18033) granting a pension to John L. Croom;
A bill (H. R. 18050) granting an increase of pension to John Keough;
A bill (H. R. 18777) granting an increase of pension to Eusebia N. Perkins;
A bill (H. R. 18687) granting an increase of pension to Sarah Hall Johnston; and
A bill (H. R. 18051) granting an increase of pension to Orson M. Markeum.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:
A bill (H. R. 18796) granting a pension to William M. Smith;
A bill (H. R. 8223) granting a pension to John J. Macentee; and
A bill (H. R. 18273) granting an increase of pension to Soren Julius Thor Straten.

Mr. ALLISON, from the Committee on Finance, to whom was referred the bill (H. R. 18527) for the relief of Lieut. D. W. Blamer, United States Navy, reported it without amendment.

Mr. ALGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:
A bill (H. R. 18030) granting an increase of pension to Leonard Hammond;
A bill (H. R. 18102) granting an increase of pension to Frank Langdon; and
A bill (H. R. 15961) granting an increase of pension to Henry Frederick.

Mr. ALGER, from the Committee on Pensions, to whom was referred the bill (H. R. 2927) granting an increase of pension to James C. Hall, reported it with an amendment, and submitted a report thereon.

Mr. CARMACK, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:
A bill (H. R. 18475) granting an increase of pension to Linda S. Anderson;
A bill (H. R. 18460) granting an increase of pension to Thomas Sellers;
A bill (H. R. 18562) granting a pension to Martha A. Tompkins; and

A bill (H. R. 16056) granting a pension to Frances Kirtland.

Mr. BEVERIDGE, from the Committee on Territories, to whom was referred the bill (H. R. 18040) to authorize Gila County, Ariz., to issue $40,000 in bonds to build a court-house, etc., reported it without amendment, and submitted a report thereon.

Mr. BURROWS, from the Committee on Finance, to whom was referred the bill (S. 7172) providing for the appointment of an appraiser of merchandise and an assistant appraiser for the customs collection district of Puget Sound, State of Washington, reported it with amendments.

Mr. FOSTER of Washington, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 17627) granting an increase of pension to Michael Daniel Kernan;

A bill (H. R. 17810) granting an increase of pension to Cyrus Van Cott;

A bill (H. R. 18730) granting an increase of pension to Alfred M. Connor, alias Alfred C. Morris; and

A bill (H. R. 18453) granting an increase of pension to Jacob C. Ryan.

Mr. KEAN, from the Committee on Interstate Commerce, to whom was referred the bill (S. 7236) to amend an act entitled "An act to authorize the board of commissioners for the Connecticut bridge and highway district to construct a bridge across the Connecticut River at Hartford, in the State of Connecticut, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

Mr. BARD, from the Committee on Irrigation and Reclamation of Arid Lands, to whom was referred the amendment submitted by Mr. HEYBURN on the 9th instant relative to the reclamation fund established under the act of June 17, 1902, intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be printed, and, with the accompanying paper, referred to the Committee on Appropriations; which was agreed to.

He also, from the same committee, to whom was referred the amendment submitted by Mr. HEYBURN on the 9th instant relative to the withdrawal from public entry of any lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, etc., intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be printed, and, with the accompanying paper, referred to the Committee on Appropriations; which was agreed to.

Mr. FRYE, from the Committee on Commerce, reported an amendment relative to the assignment to active duty of retired officers of the Revenue-Cutter Service, intended to be proposed to the sundry civil appropriation bill, and moved that it be referred to the Committee on Appropriations, and printed; which was agreed to.

REPORT OF INTERNATIONAL GEOGRAPHIC CONGRESS.

Mr. PLATT of New York. I am directed by the Committee on Printing, to whom was referred the joint resolution (S. R. 109) to print the report of the Eighth International Geographic Congress, to report it favorably without amendment, and I ask for its present consideration.

There being no objection, the joint resolution was considered as in Committee of the Whole. It directs the Public Printer to print the report of the Eighth International Geographic Congress, held in the United States in September, 1904, the edition to consist of the usual number for the use of the Senate and House of Representatives and 1,500 copies to be bound for the use of the Eighth International Geographic Congress.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SECOND-CLASS MAIL MATTER.

Mr. SCOTT. From the Committee on Post-Offices and Post-Roads I report a bill and ask for its immediate consideration.

The bill (S. 7239) to amend section 13 of chapter 394 of the Supplement to the Revised Statutes of the United States was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That section 13 of chapter 394 of the Supplement to the Revised Statutes of the United States be amended so as to read as follows: "That any person who shall submit or cause to be submitted to any postmaster or to the Post-Office Department or any officer of the postal service any false evidence relative to any publication for the purpose of securing the admission thereof at the second-class rate for transportation in the mails, shall be deemed guilty of a misdemeanor, and for every such offense, upon conviction thereof, shall be punished by a fine of not less than $100 nor more than $500."

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. GALLINGER. Where did the bill come from?

Mr. SCOTT. From the Committee on Post-Offices and Post-Roads.

The PRESIDENT pro tempore. It was reported this morning.

Mr. SCOTT. I hope the Senator will let it go through. It is to correct a growing evil.

Mr. GALLINGER. The committee have unanimously reported it?

Mr. SCOTT. Yes, sir.

Mr. GALLINGER. I think I shall not object. It strikes me as being a very inconsequential thing, and that it starts on a line of legislation which will cause Congress to undertake to correct a great variety of evils that may well be left, I think, to the Department. I shall not object.

Mr. LODGE. I should like to have the bill read again.

The PRESIDENT pro tempore. It will be again read.

The Secretary again read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPHINE E. BARD.

Mr. McCUMBER. I am directed by the Committee on Pensions to report back favorably, with amendments, two Senate bills (7227 and 7077), and to ask the immediate consideration of the same. The first is the bill (S. 7227) granting an increase of pension to Josephine E. Bard.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendments of the Committee on Pensions were, in line 7, after the word "Infantry," to strike out "Army of the Potomac, in the war of the rebellion;" and in line 9, before the word "dollars," to strike out "fifty" and insert "twenty-five;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Josephine E. Bard, widow of Robert W. Bard, late major, Ninety-fifth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ROBERT CATLIN.

The bill (S. 7077) granting a pension to Robert Catlin was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Robert Catlin, helpless and dependent child of Robert Catlin, late second lieutenant, Fifth Regiment United States Artillery and Forty-third Regiment United States Infantry, and pay him a pension at the rate of $20 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DORA D. WALKER.

Mr. OVERMAN. I am directed by the Committee on Pensions, to whom was referred the bill (S. 2666) granting a pension to Dora D. Walker, to report it favorably with an amendment, and I ask for its present consideration.

There being no objection, the bill was considered as in Committee of the Whole.

The amendment of the Committee on Pensions was to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Dora D. Walker, mother of Ward V. Walker, late of Company C, Fortieth Regiment, United States Volunteer Infantry, war with Spain, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

POLICEMEN'S AND FIREMEN'S FUND.

Mr. STEWART. I am directed by the Committee on the District of Columbia, to whom was referred the bill (H. R. 7022) to amend section 4 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901, to report it favorably with amendments, and I should like to have present consideration of the bill if there is no objection.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The first amendment was, on page 2, line 4, after the word "any," to strike out "of the officers named in this section" and insert "member of the police or fire department;" so as to read:

That section 4 of "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901, be, and the same is hereby, amended so that it shall read as follows:

"SEC. 4. That hereafter the Commissioners of the District of Columbia are hereby authorized and directed to deposit with the Treasurer of the United States, out of the receipts from fines in the police court and receipts from dog licenses, a sufficient amount to meet any deficiency in the policemen's fund or firemen's fund: *Provided*, That the chief engineer of the fire department and all other officers of said department of and above the rank of captain, the superintendent, assistant superintendent, any captain or lieutenant of police, in case of retirement as now provided by law, shall receive relief not exceeding $100 per month; and in case of the death from injury or disease of any member of the police or fire department, if he be unmarried and leave a dependent mother, who is a widow, the same shall be for her relief during the period of widowhood, or if he leave a widow, or children under 16 years of age, the same shall be for their relief during the period of widowhood, or until such children reach the age of 16 years: *Provided*, That in no case shall the amount paid to such dependent mother or widow exceed $50 per month, nor shall the amount paid for a child exceed $25 per month."

The amendment was agreed to.

The next amendment was, after the word "month," in line 13, to strike out the remainder of the bill, in the following words:

Provided further, That no pension shall be paid to any person not of good moral character, and any pension heretofore or hereafter allowed may be discontinued whenever it shall be shown to the satisfaction of the Commissioners of the District upon due notice to the pensioner and after hearing thereon that the pensioner is not then a person of good moral character.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

COURTS IN GEORGIA.

Mr. BACON. From the Committee on the Judiciary I report back favorably with amendments the bill (H. R. 5498) to provide for circuit and district courts of the United States at Albany, Ga. I would be very glad to have present consideration of the bill. It is a short one.

The PRESIDENT pro tempore. The bill will be read.

Mr. HALE. I will not object to this measure, but after it is disposed of I must object to other bills. There is very little time between now and 2 o'clock to consider the business of the Senate which is up and must necessarily be disposed of, the House message relating to a conference. There is an appropriation bill ready, and at 2 o'clock we are constrained by this long-drawn-out and tedious performance, which promises no end whatever. Therefore, after this bill is disposed of I must object.

Mr. BACON. I will not ask for the consideration of any other.

Mr. HALE. No; I presume not; and I do not wish any other Senator to ask for the consideration of any other.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The first amendment of the Committee on the Judiciary was, in section 1, line 3, before the word "judicial," to strike out "northern" and insert "southern;" and in line 5, after the word "counties," to strike out "of Clay, Early, Quitman, Randolph, Terrell, Miller, and Webster, of the northern district of Georgia, and;" so as to make the section read:

That the southwestern division of the southern judicial district of Georgia is hereby established, to be composed of the counties of Baker, Calhoun, Dougherty, Lee, Mitchell, and Worth, of the southern district of Georgia.

The amendment was agreed to.

The next amendment was, in section 2, line 10, before the word "district," to strike out "northern" and insert "southern;" in line 11, before the word "Mondays," to strike out "second" and insert "third;" in line 13, before the word "judicial," to strike out "northern" and insert "southern;" and on page 2, line 1, after the word "positions," to strike out "and no additional clerk or marshal shall be appointed in said district. If, in the opinion of the court, it shall become necessary, a deputy clerk may be appointed;" so as to make the section read:

SEC. 2. That a term of the circuit court and of the district court for the southern district of Georgia shall be held at Albany, in said State, on the third Mondays in June and December in each year; and it shall be the duty of the clerk, marshal, and other officers of the southern judicial district to attend said terms of said court and perform all the duties pertaining to their positions: *Provided, however*, That suitable rooms and accommodations are furnished for the holding of said courts free of expense to the Government of the United States.

The amendment was agreed to.

The next amendment was, in section 4, page 2, line 19, after the word "counties," to strike out "taken as aforesaid from the southern district, or committed in the northern district as hitherto constituted;" so as to make the section read:

SEC. 4. That prosecutions for crime or offenses hereafter committed in any of the counties of the southwestern division shall be cognizable within such division; and all prosecutions for crime or offenses heretofore committed within either of said counties shall be commenced and proceeded with as if this act had not been passed.

The amendment was agreed to.

The next amendment was, on page 2, section 5, line 24, after the word "courts," to strike out "of either district or division from which the counties constituting this division have been taken;" so as to make the section read:

SEC. 5. That all civil suits and proceedings now pending in the circuit or district courts, and which would, if instituted after the passage of this act, be required to be brought in the southwestern division of said district, may be transferred by consent of all parties or by order of the court to said southwestern division of said district and there disposed of in the same manner and with like effect as if the same had been instituted therein; and all processes, writs, and recognizances relating to such suits and proceedings so transferred shall be considered as belonging to the term of the court in the southwestern division of said district in the same manner and with like effect as if they had been issued or taken in reference thereto originally.

The amendment was agreed to.

The next amendment was, in section 6, on page 3, line 15, before the word "district," to strike out "northern" and insert "southern;" so as to make the section read:

SEC. 6. That in all cases of removal of suits from the courts of the State of Georgia to the courts of the United States in the southern district of Georgia such removal shall be to the United States courts in the division in which the county is situated from which the removal is made, and the time within which the removal shall be perfected, in so far as it refers to or is regulated by the terms of the United States courts, shall be deemed to refer to the terms of the United States courts in such division.

The amendment was agreed to.

The next amendment was to strike out section 8, in the following words:

SEC. 8. That this act shall be in force from and after the 1st day of January, A. D. 1905.

The amendment was agreed to.

The next amendment was to strike out section 9, in the following words:

SEC. 9. That the counties of Baker, Calhoun, Dougherty, Lee, Mitchell, and Worth be, and the same are hereby, transferred from the southern to the northern district of Georgia.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

BILLS INTRODUCED.

Mr. SMOOT introduced a bill (S. 7240) to provide for the purchase of a site and the erection of a public building thereon in the city of Provo, State of Utah; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also introduced a bill (S. 7241) to establish an assay office at the city of Provo, in the State of Utah; which was read twice by its title, and referred to the Committee on Finance.

Mr. MARTIN introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims.

A bill (S. 7242) for the relief of the estate of George P. Loehr, deceased (with accompanying papers);

A bill (S. 7243) for the relief of the vestry of St. Paul's Protestant Episcopal Church, of Haymarket, Prince William County, Va.;

A bill (S. 7244) for the relief of W. W. Kimball, heir of Mrs. S. E. T. Stribling (with accompanying papers); and

A bill (S. 7245) for the relief of the trustees of Lebanon Union Church, of Lincolnia, Fairfax County, Va.

Mr. BACON introduced a bill (S. 7246) for the relief of Jesse J. Bull; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. HANSBROUGH introduced a bill (S. 7247) ceding a strip or parcel of land to the city of Hot Springs, Ark., for use as a public street; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. MONEY introduced a bill (S. 7248) for the relief of the heirs of B. T. Terry, deceased; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. LODGE submitted an amendment proposing to appropriate $5,000 to enable the Secretary of State to have copied and prepared for publication the Diplomatic Archives of the United States from 1789 to 1861, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. FULTON submitted an amendment proposing to appropriate $30,000 to enable the Secretary of Commerce and Labor to make a full thorough, and practical test of lifeboats built and owned by citizens of the United States, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. CLAPP submitted an amendment providing for the distribution of the reports of the United States circuit courts of appeal and of the United States circuit and district courts, etc., intended to be proposed by him to the sundry civil appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

Mr. BATE submitted an amendment proposing to appropriate $350,000 for the maintenance of the six locks, and building the dams thereto, above Nashville and below Carthage, Tenn., intended to be proposed by him to the river and harbor appropriation bill; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. FORAKER submitted an amendment proposing to appropriate $8,000 for the purchase of life-sized portraits of Chief Justices Marshall, Taney, Chase, and Waite, intended to be proposed by him to the sundry civil appropriation bill; which was referred to the Committee on the Library, and ordered to be printed.

Mr. HEYBURN submitted an amendment proposing to appropriate $27,500 for the construction of school buildings at the Lemhi Agency, Idaho, intended to be proposed by him to the Indian appropriation bill; which was ordered to lie on the table and be printed.

TREATY WITH TRIPOLI.

Mr. LODGE. I present a paper, being a copy of a treaty of perpetual peace and friendship transmitted to the Senate by President John Adams, May 26, 1797, between the United States of America and the Bey and subjects of Tripoli, of Barbary, concluded at Tripoli on the 4th day of November, 1796. It has been obsolete for a long time, and I move that it be printed as a public document.

The motion was agreed to.

PUBLIC LANDS COMMISSION REPORT.

Mr. BARD. I offer a concurrent resolution and ask for its present consideration.

The concurrent resolution was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed 25,000 copies of Senate Document No. 154, Fifty-eighth Congress, third session, of which 5,000 shall be for the use of the Senate and 5,000 for the use of the House of Representatvs and 15,000 for the use of the Public Lands Commission.

Mr. CULLOM and Mr. SPOONER. What is the document?

The PRESIDENT pro tempore. The Chair thinks the resolution ought to go to the Committee on Printing.

Mr. BARD. It is the Public Lands Commission report. I offer it at the request of members of the Committee on Public Lands. I will send to the desk a copy of the report.

Mr. HALE. I suppose under the rule the resolution should go to the Committee on Printing.

The PRESIDENT pro tempore. The Chair thinks it ought to go to the Committee on Printing. It will be referred to that committee.

NATIONAL INCORPORATION FOR RAILROADS.

Mr. NEWLANDS. I ask unanimous consent that the joint resolution (S. R. 86) creating a commission to frame a national incorporation act for railroads engaged in interstate commerce, which is on the Table Calendar, No. 19, be referred to the Committee on Interstate Commerce.

The PRESIDENT pro tempore. The joint resolution will be referred to the Committee on Interstate Commerce, in the absence of objection.

LIEU TIMBER LANDS.

Mr. HANSBROUGH. I move that the bill (H. R. 14622) prohibiting the selection of timber lands in lieu of lands in forest reserves be taken from the Calendar and recommitted to the Committee on Public Lands.

The motion was agreed to.

ARMY APPROPRIATION BILL.

Mr. PROCTOR submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17437) making appropriations for the support of the Army for the fiscal year ending June 30, 1906, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 19, 20, and 27.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 26, 28, 29, 30, and 31, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In line 23, page 35 of the bill, strike out the word "eighty-one" and insert in lieu thereof the words "two hundred thirty-one;" and the Senate agree to the same.

Your committee report disagreements on the following amendments: 1, 10, and 11.

REDFIELD PROCTOR,
R. A. ALGER,
F. M. COCKRELL,
Managers on the part of the Senate.

J. A. T. HULL,
ADIN B. CAPRON,
JAMES HAY,
Managers on the part of the House.

The PRESIDENT pro tempore. Will the Senate agree to the conference report?

Mr. HALE. Mr. President, I inquire what are the subjects-matter of the amendments not agreed to?

Mr. PROCTOR. One is the cable to Valdez, Alaska, a matter which was not brought up in the other body. I think there will be no trouble on a second conference to reach an agreement upon that.

Mr. HALE. What are the others?

Mr. PROCTOR. Another is the matter of the officers in the Record and Pension Division. The House abolished that office; did away with it entirely. The Senate proposed an amendment providing a way for appointments. I think there will be no difficulty in a compromise on that subject in another conference.

Mr. HALE. That is as far as the House conferees insisted?

Mr. PROCTOR. They insisted on that. The third amendment in disagreement is in regard to pay of retired officers who are detailed on active duty.

The PRESIDENT pro tempore. The question is on agreeing to the report of the conference committee.

The report was agreed to.

Mr. PROCTOR. I move that the Senate further insist on the three amendments disagreed to by the House of Representatives and ask for a further conference with the House.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint conferees on the part of the Senate; and Mr. PROCTOR, Mr. ALGER, and Mr. COCKRELL were appointed.

Mr. SPOONER. Mr. President, I should like to inquire of the Senator from Vermont whether any agreement has been arrived at as to the controverted proposition about the pay of retired officers when assigned to active duty?

Mr. PROCTOR. There has been a conference on that point, and the Senate conferees have made almost every proposition they could think of in the way of a compromise, limiting the reduction to those who are detailed for service with the National Guard, but we were not able to induce the conferees on the part of the House to yield, except to the extent that if their contention is agreed to the provision will be worded as it was submitted here, in a positive way, that such officers shall be paid their retired pay and nothing further from the United States.

Mr. SPOONER. I have no objection for one to a provision that limits the officers above the rank of lieutenant-colonel——

Mr. PROCTOR. Above the rank of major.

Mr. SPOONER. Above the rank of major detailed for service with the National Guard to their retired pay from the

United States, leaving the States to do what they choose to do about that. But does the House insist upon the general proposition that no retired officer placed upon active service for the Government itself, on staff duty in time of peace or in time of war, shall have more than his retired pay?

Mr. PROCTOR. Mr. President, the House conferees insist upon their entire claim, which applies to officers detailed for every duty. That has been presented as earnestly as possible. It has been explained that where the term of service is short, as in the case of courts-martial, courts of inquiry, and matters of that kind, the expense is large and the duty important; but we were unable to make a reasonable compromise on that.

Mr. SPOONER. Is this supposed to be a full and free conference?

Mr. PROCTOR. It has been a very full conference indeed.

GEORGE H. BRUSSTAR.

Mr. McCUMBER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 17117) granting an increase of pension to George H. Brusstar, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment and agree to an amendment inserting in lieu thereof the word "thirty;" and that the House agree to the same.

P. J. McCUMBER,
N. B. SCOTT,
JAMES P. TALIAFERRO,
Managers on the part of the Senate.

THOMAS W. BRADLEY,
CHARLES E. FULLER,
Managers on the part of the House.

The report was agreed to.

INDIAN APPROPRIATION BILL.

Mr. STEWART. I desire to give notice that the Indian appropriation bill is ready, and that I will call it up to-morrow morning, unless an earlier opportunity presents itself for me to ask for its consideration.

MILITARY ACADEMY APPROPRIATION BILL.

The PRESIDENT pro tempore. Is there further morning business?

Mr. WARREN. Mr. President——

Mr. HEYBURN. Is the morning business terminated?

Mr. WARREN. I move that the Senate proceed to the consideration of House bill 17984, being the Military Academy appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 17984) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1906, and for other purposes, which had been reported from the Committee on Military Affairs with amendments.

Mr. WARREN. I ask that the first formal reading of the bill may be dispensed with, that it may be read for amendment, and that the amendments of the Committee on Military Affairs first receive consideration.

The PRESIDENT pro tempore. The Senator from Wyoming asks unanimous consent that the first formal reading of the bill be dispensed with, that it may be read for amendment, and that the committee amendments first receive consideration. Is there objection? The Chair hears none, and that order is made.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Military Affairs was, under the subhead "Permanent establishment," on page 4, line 5, after the word "band" where it occurs the first time, to strike out the comma and the word "one" and insert a colon and the word "One;" so as to make the clause read:

For pay of military band: One band sergeant and assistant leader, $600.

The amendment was agreed to.

The next amendment was, under the subhead "Pay of civilians," on page 11, line 10, after the word "band," to insert "one enlisted band sergeant and assistant leader;" in line 12, after the word "mounted," to insert "the enlisted band sergeant and assistant leader shall receive $600 per year;" and in line 20, after the word "music," to insert "the band sergeant and assistant leader;" so as to read:

SEC. 1111. The Military Academy band shall hereafter consist of one teacher of music, who shall be the leader of the band, one enlisted band sergeant and assistant leader, and of forty enlisted musicians. The teacher of music shall receive the pay of a second lieutenant, not mounted; the enlisted band sergeant and assistant leader shall receive $600 per year; and of the enlisted musicians of the band, twelve shall each receive $34 per month, twelve shall each receive $25 per month, and the remaining sixteen shall each receive $17 per month, and each of the aforesaid enlisted men shall also be entitled to the clothing, fuel, rations, and other allowances of musicians of cavalry; and the said teacher of music, the band sergeant and assistant leader, and the enlisted musicians of the band shall be entitled to the same benefits in respect to pay, emoluments, and retirement arising from longevity, reenlistment, and length of service as are, or may hereafter become, applicable to other officers or enlisted men of the Army.

The amendment was agreed to.

The next amendment was, on page 12, line 11, before the word "civilian," to strike out "one" and insert "two;" in the same line, after the word "civilian," to strike out "instructor" and insert "instructors;" in line 13, before the word "two," to insert "at," and in the same line, after the word "dollars," to insert "per year each, $4,000;" so as to make the clause read:

For two civilian instructors of French, to be employed under rules prescribed by the Secretary of War, at $2,000 per year each, $4,000.

The amendment was agreed to.

The next amendment was, on page 12, after line 16, to insert:

For three expert civilian instructors in fencing, broad-sword exercises, and other military gymnastics as may be required to perfect this part of the training of cadets, to be selected and appointed by the Superintendent of the Military Academy, $4,500.

The amendment was agreed to.

The next amendment was, on page 13, line 13, before the word "firemen," to strike out "seventeen" and insert "eleven;" and in the same line, before the word "hundred," to strike out "ten thousand two" and insert "six thousand six;" so as to make the clause read:

For pay of eleven firemen, $6,600.

The amendment was agreed to.

The next amendment was, on page 15, line 18, to increase the total appropriation for pay of civilians employed at the Military Academy, from $53,880 to $56,600.

The amendment was agreed to.

The next amendment was, under the subhead "Miscellaneous items and incidental expenses," on page 25, after line 8, to insert:

For maintaining the children's school, the Superintendent of the Military Academy being authorized to employ the necessary teachers, $3,520.

The amendment was agreed to.

The next amendment was, on page 25, line 14, to increase the total appropriation for miscellaneous items and incidental expenses from $46,555 to $50,075.

The amendment was agreed to.

The next amendment was, under the subhead "Buildings and grounds," on page 27, after line 8, to strike out:

For material for rebronzing radiators and piping, $20.

The amendment was agreed to.

The next amendment was, on page 27, after line 10, to strike out:

For a suitable prepared wax for waxing and polishing floors, $30.

The amendment was agreed to.

The next amendment was, on page 27, after line 12, to strike out:

For suitable incandescent lights, droplights, mantels, and tubes, $30.

The amendment was agreed to.

The next amendment was, on page 27, after line 14, to strike out:

For carpets and furniture and appliances for cadet hospital and for repairs of damaged articles and for miscellaneous expenses, $40.

And insert:

Materials for rebronzing radiators and piping; material for waxing and polishing floors; suitable incandescent lights, droplights, mantels, tubes; for carpets, furniture, and appliances; for repairs of damaged articles, and for miscellaneous expenses, $120.

The amendment was agreed to.

The next amendment was, on page 27, line 23, after the word "grounds," to strike out "including new grounds in front of south wing;" so as to make the clause read:

For purchase of flowers and shrubs for hospital grounds, $100.

The amendment was agreed to.

The next amendment was, on page 28, line 12, after the word "screens," to strike out "to protect patients from flies and mosquitoes, at $10 each;" so as to make the clause read:

For one new bathroom, third floor, with fixtures and tiling; for iron bridge across court, and stairway leading to court; for subdividing operating room so as to make room for minor cases, dressing and anæsthesia, with corresponding tiled walls; for enlarging and renovating present cadet mess room, and for new kitchen in basement, with plumbing, cooking apparatus, refrigerator, pantry, and dumb-waiter; for making two new entrances to basement; for new bathroom, first floor, with fixtures and tiling; for exhaust fan for shaft and fan inside dark room; for cement gutter along the lower base of lawn in front of hospital; for 120 window screens; $6,875.

The amendment was agreed to.

The next amendment was, on page 28, after line 17, to insert:

For building provisional contagious-disease hospital, under direction of the Secretary of War, $5,000, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 30, after line 11, to strike out:

For painting interior walls, ceiling, and ironwork of stairways in the academy building and varnishing the woodwork, repairing plastering and plaster cornice throughout the building, $6,500.

The amendment was agreed to.

The next amendment was, on page 28, after line 15, to strike out:

For enlarging porch of quarters of the Superintendent, $3,000.

The amendment was agreed to.

The next amendment was, on page 30, after line 19, to strike out:

For repairing ceiling of porch and repairing fence around stable and riding hall, $125.

The amendment was agreed to.

The next amendment was, on page 30, after line 21, to strike out:

For repairing roof of riding hall, $100.

The amendment was agreed to.

The next amendment was, on page 30, after line 22, to strike out:

For putting in eighteen new sashes in riding hall, replacing glass in others and repairing same, $250.

The amendment was agreed to.

The next amendment was, on page 31, line 13, before the word "lavatory," to strike out "increasing the water-closet and rearranging the urinal facilities in;" so as to make the clause read:

For lavatory at cavalry barracks, $85.

The amendment was agreed to.

The next amendment was, on page 31, after line 14, to strike out:

For painting the interior and exterior of the army service barracks, repairs of plastering, doors, and windows, plumbing, etc., $1,600.

The amendment was agreed to.

The amendment was, on page 31, after line 17, to insert:

To use toward the restoration of Fort Putnam, on the United States Military Reservation at West Point, N. Y., to be expended under the direction of the Secretary of War, $5,000.

The amendment was agreed to.

The next amendment was, on page 31, after line 21, to insert:

For tile or terazzo floor and tile wainscoting in the north serving room, the north scullery and adjoining hall, and butcher shop of the cadet mess, $3,900.

The amendment was agreed to.

The next amendment was, on page 32, line 1, to increase the total appropriation for buildings and grounds at the Military Academy from $56,995 to $59,320.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. WARREN. On page 14, lines 5 and 6, I desire to strike out the words "seven hundred and twenty dollars" and insert "$900," to correct an error.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The amendment will be stated.

The SECRETARY. On page 14, line 5, after the word "plumber," it is proposed to strike out "seven hundred and twenty" and insert "nine hundred;" so as to read:

For pay of assistant plumber, $900.

The amendment was agreed to.

Mr. WARREN. Mr. President, I inquire what is the total as it appears in the bill at the desk, in line 19 on page 15?

The SECRETARY. The total as reported by the committee was $53,880, which has been changed to $56,600.

Mr. WARREN. That does not correspond with the copy of the bill that I have. I will correct it in a moment.

Mr. PLATT of Connecticut. Mr. President, I wish to offer an amendment, to come in on page 11, after line 2, and I wish to say that I hope there will be no objection on the part of the committee, or, indeed, on the part of any member of the Senate to the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 11, after line 2, it is proposed to insert:

Provided further, That the President of the United States be, and he is hereby, authorized, in his discretion, to nominate and, by and with the consent of the Senate, to appoint upon the retired list of the Army, with the rank of brigadier-general, Joseph R. Hawley, formerly a brigadier-general and brevet major-general of volunteers during the civil war.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from Connecticut [Mr. PLATT].

The amendment was agreed to.

Mr. WARREN. Mr. President, I will ask that the total, on page 15, lines 18 and 19, be changed to $60,380. I think the Secretary will find that to be the correct footing.

The PRESIDING OFFICER. The amendment proposed by the Senator from Wyoming will be stated.

The SECRETARY. On page 15, line 18, it is proposed to change the total from "$56,600" to "$60,380."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

STATEHOOD BILL.

Mr. BEVERIDGE. Mr. President, I wish to call up the matter that was under discussion yesterday morning when the hour for the Senate convening as a court of impeachment came.

The PRESIDING OFFICER. The Chair lays before the Senate the action of the House of Representatives on the statehood bill, which will be read.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES,
February 17, 1905.

Resolved, That the Committee on the Territories be, and hereby is, discharged from the consideration of the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, with the Senate amendments thereto; that the said Senate amendments be, and hereby are, disagreed to by the House, and a conference asked of the Senate on the disagreeing votes of the two Houses on the said bill.

The PRESIDENT pro tempore. The question is on the motion made by the Senator from Indiana [Mr. BEVERIDGE], that the Senate insist upon its amendments disagreed to by the House of Representatives, agree to the conference asked for by the House, and that the Chair appoint the conferees.

Mr. TELLER. Mr. President, I understand that the Senator from Nevada [Mr. STEWART] proposes to ask for the present consideration of the Indian appropriation bill. If he so desires, I suppose he has the privilege of doing so. Otherwise I am prepared to go on with the discussion which I commenced yesterday.

Mr. HALE. I hope the Senator from Nevada does not intend to press that appropriation bill at this time. It is a very important one——

Mr. STEWART. I want to go on with the appropriation bill. Is it in order to move to take up that bill?

The PRESIDENT pro tempore. It is.

Mr. STEWART. Then I move that the Senate now proceed to the consideration of the Indian appropriation bill.

Mr. SPOONER. Is not the motion of the Senator from Indiana [Mr. BEVERIDGE] a privileged motion?

Mr. TELLER. It is not.

The PRESIDENT pro tempore. It is not. The Senate may proceed to the consideration of any subject that a majority desire to consider.

Mr. SPOONER. Well, I suppose that is true, Mr. President.

INDIAN APPROPRIATION BILL.

The PRESIDENT pro tempore. The Senator from Nevada [Mr. STEWART] moves that the Senate proceed to the consideration of the Indian appropriation bill. The question is on that motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 17474) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1906, and for other purposes, which had been reported from the Committee on Indian Affairs with amendments.

Mr. STEWART. I ask unanimous consent that the first formal reading of the bill be dispensed with, that it be read for amendment, and that the amendments of the Committee on Indian Affairs be first considered.

The PRESIDENT pro tempore. The Senator from Nevada asks unanimous consent that the first formal reading of the bill be dispensed with, that it be read for amendment, the committee amendments first to receive consideration. Is there objection? The Chair hears none, and that order is made.

SENATOR FROM INDIANA.

Mr. BEVERIDGE. Mr. President, I desire to present at this time the credentials of JAMES A. HEMENWAY, chosen by the legislature of Indiana a Senator from that State for the unexpired term of six years from the 4th day of March, 1903. I call the attention of the Senator from Texas [Mr. BAILEY].

The PRESIDENT pro tempore. The credentials will be read.

The Secretary read as follows:

In the name and by the authority of the State of Indiana. Executive department.

To all who shall see these presents, greeting:

This is to certify that on the 17th day of January, 1905, JAMES A. HEMENWAY was duly chosen by the legislature of the State of Indiana a Senator to represent said State in the Senate of the United States for the unexpired portion of the term of six years from the 4th day of March, 1903, and to fill the vacancy occasioned therein by the resignation of the Hon. CHARLES W. FAIRBANKS.

Witness, his excellency our governor, J. Frank Hanly, and our seal hereto affixed at the city of Indianapolis, Ind., this 18th day of February, A. D. 1905.

By the governor:

J. FRANK HANLY,
Governor.

[SEAL.] DANIEL E. STORMS,
Secretary of State.

The PRESIDENT pro tempore. The credentials will be placed on file if there be no objection.

Mr. BAILEY. Mr. President, before the credentials are placed on file, I want to call the attention of the Senate to what I think is a fatal objection to this certificate of election and to the election itself.

The certificate shows that that election occurred in the legislature of Indiana during the month of January and that Mr. HEMENWAY was chosen to fill a vacancy occasioned by the resignation of Senator FAIRBANKS, to take effect on the 4th of March. Thus the legislature of Indiana has asserted its right to fill a vacancy not only when no vacancy exists, but when it was possible under the law that no vacancy ever would exist. The courts have more than once held—and no court has held it more distinctly than the supreme court of Indiana—that a resignation to take effect at a future day is not a resignation at all, but simply a notice of an intention to resign, such resignation becoming effective if it remains with the officer authorized to receive it up to the time it was to take effect. But all the courts that have discussed the matter—possibly, that is too broad—I will say a large majority of the courts that have discussed the matter, hold that until the date indicated in the resignation the officer may withdraw it, and may thus prevent a vacancy.

Of course, nobody believes that the distinguished Senator from Indiana [Mr. FAIRBANKS] will withdraw his resignation in order to remain amongst us instead of accepting the call to preside over us, but the probability or the improbability of the withdrawal of a resignation does not affect the law of the case.

I do not, however, intend to insist upon any reference of this particular credential, because the Senate seems to have considered and decided the very question in the Chilton case. There a Senator from my own State was appointed in April to fill a vacancy which, by the terms of the resignation, was to occur in June. His credentials were referred to the Committee on Privileges and Elections and that committee reported unanimously that he was entitled to his seat. But the remarkable thing is that, although that report was prepared and presented by so great and so accurate a lawyer as the late Senator from Massachusetts, Mr. Hoar, it does not appear to have taken into consideration at all the very vital question in the case. The report devotes itself almost entirely to a line of reasoning upon the right of executives and legislatures to fill a vacancy which is certain to occur, in advance of its occurrence. But the report in no part of it as I now recall—it has been some time since I examined it; I did examine it closely at the time, and I remember distinctly to have believed, although I had no interest in it, that the Senate was wrong—the report, so far as I can now recall, does not consider the question as to whether a resignation may be withdrawn or not, and yet the courts have held over and over again that it may be.

I venture to say that the records of Congress will verify my statement that Senators have telegraphed their resignations to the governors of their States and afterwards withdrawn them. But, recognizing that—although it did not seem to consider the vital point in the case—the report and the action of the Senate in the Chilton case are on all fours with the present case, I am not going to ask that the credentials be referred to the Committee on Privileges and Elections, but content myself with simply saying that if it were a question that might effect the political complexion of the Senate, I should not want it to be understood as concluded by the action of the Senate here.

Mr. BURROWS. Mr. President, as the Senator from Texas [Mr. BAILEY] has well said, this very question raised by the Senator has been repeatedly presented to the Senate and repeatedly decided, notably in the case of Henry Clay, of Kentucky, who resigned his seat in the Senate to take effect at a future date. The legislature, in anticipation of such vacancy, and before the vacancy actually occurred, proceeded to elect a Senator to fill the prospective vacancy. Archibald Dixon was chosen by the legislature to fill such vacancy, and his right to take his seat under and by virtue of such election having been questioned upon the ground that the legislature could not fill a prospective vacancy, the Senate, after full debate, decided that the action of the legislature was regular, and that Dixon was duly elected and was entitled to the seat.

I know of no case in the history of the Senate that will bear out the contention of the Senator from Texas. But be that as it may, the question before the Senate now is simply upon receiving and placing on file the credentials of the Senator-elect from Indiana. If, at the opening of the next session, objection is made to the holder of the certificate taking the oath of office under it, then it would be the appropriate time to consider such objection.

Mr. BAILEY. Mr. President, I would myself like to see the matter determined after the Senator from Indiana, under these credentials, is sworn in. It may perhaps be an academic or an abstract question, but the distinguished Senator from Colorado [Mr. TELLER], who was a member of the committee and its chairman at the time the report was made in the Chilton case, just tells me that Senator Edmunds, whom we all know as a great lawyer, did not concur with that report. In view of the fact that the report does not—I say it with great reluctance, because we all know that the Senator from Massachusetts, Mr. Hoar, who made the report, was a man of great learning and exhaustive research—touch upon what, in my opinion, is the vital point in the case. I should like to have a report upon the question when no Senator individually is concerned.

Mr. PLATT of Connecticut. Mr. President, I quite agree with the Senator from Texas [Mr. BAILEY] that this matter ought to receive the careful attention of the Committee on Privileges and Elections, and that at some time we ought to have the opinion of that committee as to whether elections made under the circumstances in which the Senator from Indiana was elected are within the statute. I hope, not to interfere with this case, that after the Senator from Indiana shall have taken his seat, there will be a resolution inquiring of the Committee on Privileges and Elections what the law is under similar circumstances.

Mr. HALE. And let the Senate pass upon it.

Mr. PLATT of Connecticut. And let the Senate pass upon it.

I quite agree with the Senator from Texas as to what the law is.

Mr. TELLER obtained the floor.

Mr. BURROWS. Mr. President——

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Colorado yield to the Senator from Michigan?

Mr. BURROWS. I wish to say a word further.

Mr. TELLER. I yield to the Senator from Michigan.

Mr. BURROWS. Mr. President, there can be no possible objection to following the suggestion of the Senator from Texas, seconded by the Senator from Connecticut, that after the person named in the certificate shall have been sworn in the credentials be referred to the Committee on Privileges and Elections, with a view of securing a report from that committee upon the question raised.

Mr. BAILEY. I should object to that at this time for the reason that the Senator from Indiana and the legislature of Indiana were entirely within the rule——

Mr. BEVERIDGE. That is it.

Mr. BAILEY. Laid down in the Chilton case, and there is not a lawyer in this body who, if the question had been referred to him, would not have said that under the action of the Senate in the Chilton case this election was legal. Having established that precedent, I would not be willing to overrule it in the case of the Senator from Indiana or any other Senator, because it is now the law of the Senate, and legislatures were justified in following it. But when there is no seat involved it will be possible to have a report upon the question which will lay down the correct rule, and then every candidate and every legislature in the Union would know exactly how to govern themselves.

Mr. TELLER. Mr. President, I was chairman of the committee when the report was made. This matter was referred more particularly to Senator Hoar, who made the report. I was somewhat embarrassed at the time by the question from the fact that in 1882 I had resigned my seat in the Senate to take another place, and I had resigned to take effect when my successor should be elected or appointed. I had remained in the Senate until the governor of the State had appointed and

sent here my successor to be sworn in, and then I took the other place.

When this question came before the Committee on Privileges and Elections it was a new question to me, although I knew that some Senators had raised the question, but not until after I had gone out of the Senate, and I did not take any part in that discussion or in the report except pro forma.

Mr. BEVERIDGE. Mr. President, whatever may be the opinion of Senators as to the correct interpretation of the law itself, as the Senator from Texas last suggested, it is, as to this case, stare decisis. The precedents of the Senate have determined it. Therefore I trust that that suggestion will be followed and the credentials received.

The PRESIDING OFFICER. The credentials will be placed on file.

INDIAN APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 17474) making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1906, and for other purposes.

The Secretary proceeded to read the bill. The first amendment of the Committee on Indian Affairs was, under the head of "current and contingent expenses," on page 3, line 24, after the word "*Provided*," to strike out:

That the foregoing appropriations shall not take effect nor become available in any case for or during the time in which any officer of the Army of the United States shall be engaged in the performance of the duties of Indian agent at any of the agencies above named.

And insert:

That no army officer shall be appointed as Indian agent.

So as to make the proviso read:

Provided, That no army officer shall be appointed as Indian agent.

Mr. PLATT of Connecticut. Mr. President, I should like to inquire of the chairman of the committee why this amendment is proposed? I observe that the bill as it came from the House contains a provision which should very properly be stricken out:

That the foregoing appropriations shall not take effect nor become available in any case for or during the time in which any officer of the Army of the United States shall be engaged in the performance of the duties of Indian agent at any of the agencies above named.

It is very proper that that should be stricken out. It is not a proper way to reach the matter desired to provide that no pay shall be given at any agency if an army officer performs the duty of Indian agent at any agency whatever. It was very proper to strike that out, and to accomplish the result in another way and in a proper way, if the result is to be accomplished, by inserting in lieu of what is stricken out:

That no army officer shall be appointed as Indian agent.

If that is what the committee desire, the method which they have proposed for accomplishing that result is the proper one.

Mr. STEWART. That is exactly what the majority of the committee desire.

Mr. PLATT of Connecticut. But, Mr. President, I wish to contest the whole thing. The object of this amendment is to provide that no army officer shall discharge or exercise the duties of an Indian agent. They were authorized to do so by statute several years ago, and a good many army officers were appointed or detailed to discharge the duties of Indian agents, and, so far as I know, they performed those duties acceptably and very much better in a good many instances than the Indian agents appointed in the regular way. I always thought it was a good provision; that it resulted certainly in the honest administration of affairs in the agencies where the army officers were appointed or detailed.

But gradually it has fallen into disuse, until, if I am correctly informed, there are only two army officers now exercising the dutes of Indian agents. The one is Major Randlett, at the Cheyenne and Arapaho Reservation, and the name of the other one has escaped me at this particular time. But I have known a good deal about the affairs of the Cheyenne and Arapaho Reservation, and I am satisfied that Major Randlett is exactly the man who ought to be there.

Mr. SPOONER. Who is the other officer?

Mr. PLATT of Connecticut. I can not recall just at present. He is up in the Northwest somewhere.

I do not know that this provision is aimed at Major Randlett, but I very much suspect that it is. There has been an effort made here to open what is called the "big pasture" in the Kiowa, Comanche, and Arapaho Reservation, and I may stop a moment to explain what that is.

When we made the agreement with the Kiowa, Comanche, and Arapaho Indians we made it against their protest in the first instance. They protested against the agreement which was made. They said it had not received the assent of three-fourths of the adult members of the tribe; that the Indian agent there, who had obtained in that agreement a provision that he was to have a certain amount of land—I will not undertake to say how many acres; perhaps 640—had certified that three-quarters of the Indians had subscribed to the agreement, when in fact they had not, and they produced the census rolls of the Indians to prove it; and then there were various other reasons.

There arose the question as to whether the Choctaws and Chickasaws had a title there, and there was an effort made to open that reservation without paying the million and a half dollars which the agreement required to be paid, because it was said that the Choctaws and Chickasaws had the title; and then there was an effort made to open it, referring that case to the courts to be decided, and if it was decided that the Choctaws and Chickasaws had the title, then these Indians were not to receive the million and a half dollars.

The Indians stood out for ten years, and I thought they were in the right about it. Finally, within perhaps three years, that agreement with the Indians was ratified, but it was amended so that we gave to them, in addition to what the agreement to which they objected called for, a common pasture of 480,000 acres, which was to be for the common use of the tribe.

We had scarcely done that before we encountered bills here to open the 480,000 acres which we had promised those Indians should remain unopened. I do not say promised in a bill, but the ground on which the Indians assented to the agreement was that they should have 480,000 acres not to be distributed or sold or opened to settlement to white people.

Now, ever since, the Indians have been insisting on their right not to have that opened, and the people who want the land are insisting that it shall be, and a number of railways desire to get in there. So it has been a pretty burning question for the last two or three years as to whether we would go back on what we promised the Indians in effect with regard to this big pasture, as it is called, the 480,000 acres, or whether we would keep faith with them.

In all that matter Major Randlett has been on the side of the Indians, and I think he has been here before the Indian Committee at this session representing the Indians and saying that they insist on our keeping faith with them. I very much suspect that this feature of the bill, as it came from the House of Representatives and as it has been changed, is an effort to get Major Randlett away from that particular agency. Therefore I am opposed to it.

Mr. STEWART. I do not think that consideration entered into the conclusion reached by the committee. If it did, it did not come out, to my knowledge, in the discussion. There are several Senators opposed to the system generally who are not present for the moment, and I should like to have them present when this matter is to be finally disposed of.

Mr. PLATT of Connecticut. Pass it over for the present.

Mr. LODGE. Mr. President, I make the point of order that the proviso "that no army officer shall be appointed as Indian agent" is clearly general legislation and obnoxious to that clause of the rule.

Mr. STEWART. Let us dispose of it in some other way.

The PRESIDING OFFICER. The present occupant of the chair has no doubt about the point of order raised.

Mr. LODGE. I make the point of order.

Mr. STEWART. I hope the point of order will not be pressed and will not be passed upon. I do not think it is well taken, because in the Indian appropriation bill there is constantly legislation. From time immemorial almost all the legislation in regard to the Indians has been in the Indian appropriation bill. There is no other way to get along. The authorization of the appointment of army officers as Indian agents was provided for in the Indian appropriation bill, and to rule out legislation on the Indian appropriation bill would be a radical departure from the custom, not that I care anything about it so far as this particular item is concerned, but there are other items which would be affected. There are items in this bill, perhaps, as to which I should think points of order ought to be raised. But to rule out legislation on the Indian appropriation bill would be too sweeping. All the changes of this kind are made in the Indian appropriation bill.

Mr. LODGE. I wish merely to add that I am quite aware that general legislation sometimes passes on appropriation bills, but of course it passes because the Senate does not desire to make the point of order. I think this amendment stands condemned on its merits after what the Senator from Connecticut [Mr. PLATT] has said, and I make the point of order and insist upon it.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. PLATT of Connecticut. I ask that the amendment of the committee striking out the House phraseology may be agreed to.

Mr. LODGE. My point of order went only to the words proposed to be inserted.

The PRESIDING OFFICER. And the Chair so ruled.

The question is on agreeing to the amendment of the committee.

Mr. STEWART. Of course that should stand if the other language is not substituted.

Mr. SPOONER. What is the object of the Senator from Connecticut?

Mr. PLATT of Connecticut. If the language of the bill as it came from the House remains in the bill, then no payment can be made at any agency if at any other agency an army officer is discharging the duties of an Indian agent.

Mr. SPOONER. It is badly worded.

Mr. PLATT of Connecticut. I want to leave the bill so that an army officer can be appointed to discharge the duties of an Indian agent; and by agreeing to the amendment of the committee in this respect that result will be accomplished.

Mr. DUBOIS. Mr. President, the committee intended to reverse the action of Congress which provided that army officers could be appointed Indian agents. They had no reference to any individual army officer now discharging the duties of an Indian agent. The Commissioner of Indian Affairs proposed in addition to the present law that army officers should be detailed to conduct schools, which raised a controversy in the committee, and the committee decided that it would be better not to have army officers as Indian agents, much less as superintendents of schools.

There was a full and free and frank discussion in the committee, and we thought that the Government had come to this wise conclusion: The Indian agents who would do the best for the Indians would be those appointed from around the country where they served, so that they would be responsible after they left the service to their constituents, so to speak—to their people. There is no question as to what the committee wanted to do. It was unanimous. They wanted to rescind the action of Congress allowing army officers to be appointed Indian agents. I should like to have that question submitted to the Senate. I object to the provision of the Senate committee being stricken out.

Mr. CARMACK. It has been ruled out on a point of order.

Mr. LODGE. It has gone out on a point of order. This is not a question of relevancy to be submitted to the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the Committee on Indian Affairs.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Indian Affairs was, on page 4, line 7, after the word "agency," to insert "or any part thereof;" so as to read:

Provided further, That the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may devolve the duties of any Indian agency or any part thereof upon the superintendent of the Indian training school located at such agency whenever in his judgment such superintendent can properly perform the duties of such agency.

The amendment was agreed to.

The next amendment was, on page 4, line 17, before the word "of," to strike out "one" and insert "three;" in line 18, after the word "be," to strike out "an engineer" and insert "engineers, one to be designated as chief;" in line 21, after the word "each," to insert "except the chief engineer, who shall receive $3,500;" in line 22, before the word "thousand," to strike out "twenty" and insert "twenty-one;" and in line 23, after the word "dollars," to insert "*Provided*, That the requirement of three engineers skilled in irrigation shall become immediately operative;" so as to make the clause read:

For pay of eight Indian inspectors, three of whom shall be engineers, one to be designated as chief, competent in the location, construction, and maintenance of irrigation works, at $2,500 per annum each, except the chief engineer, who shall receive $3,500, $21,000: *Provided*, That the requirement of three engineers skilled in irrigation shall become immediately operative.

The amendment was agreed to.

The next amendment was, on page 5, line 23, to increase the appropriation for buildings and repairs of buildings at agencies and for rent of buildings for agency purposes, etc., from $60,000 to $65,000.

The amendment was agreed to.

The next amendment was, on page 6, line 11, to reduce the appropriation for contingencies of the Indian Service, including traveling and incidental expenses of Indian agents, etc., from $75,000 to $60,000.

The amendment was agreed to.

The next amendment was, on page 7, line 18, after the word "equipments," to insert "and renting quarters where necessary;" so as to make the clause read:

To enable the Secretary of the Interior to employ suitable persons as matrons to teach Indian girls in housekeeping and other household duties, at a rate not to exceed $70 per month, and for furnishing necessary equipments, and renting quarters where necessary, $25,000: *Provided*, That the amount paid said matrons shall not come within the limit for employees fixed by the act of June 7, 1897. (30 Stats., p. 90.)

The amendment was agreed to.

The next amendment was, under the subhead "Chippewas of Minnesota, reimbursable," on page 10, line 24, after the word allotments," to insert "to be made under the supervision of said commissioners;" so as to make the clause read:

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to carry out an act entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January 14, 1889, namely, the purchase of material and employment of labor for the erection of houses for Indians; for the purchase of agricultural implements, stock, and seeds, breaking and fencing land; for payment of expenses of delegations of Chippewa Indians to visit the White Earth Reservation; for the erection and maintenance of day and industrial schools; for subsistence and for pay of employees; for pay of commissioners and their expenses, and for removal of Indians and for their allotments, to be made under the supervision of said commissioners, to be reimbursed to the United States out of the proceeds of sale of their lands, $150,000.

The amendment was agreed to.

The next amendment was, under the subhead "Kickapoos in Kansas," page 12, after line 16, to strike out:

For interest on $65,540.94, at 5 per cent per annum, for educational and other beneficial purposes, per treaty of May 18, 1854, $3,277.04.

And insert:

For interest on $65,253.11, at 5 per cent per annum, for educational and other beneficial purposes, per treaty of May 18, 1854, $3,260.15, out of which sum the President is authorized to pay the legal representative of one deceased Kickapoo Indian (Sakto) such sum as may be his proportion of $100,000 provided by said tribe for education and other beneficial purposes, not exceeding $337.83.

The amendment was agreed to.

The next amendment was, under the subhead "Pawnees," on page 14, after line 16, to insert:

For pay of one farmer, two blacksmiths, one miller, one engineer, and apprentices, and two teachers, per same treaty, $5,400.

The amendment was agreed to.

The next amendment was, under the subhead "Winnebagoes," on page 23, after line 5, to insert:

That no portion of the funds appropriated by this act nor the principal nor interest of any Indian trust or tribal funds held by the United States for the benefit of any Indian tribe shall be available nor be expended for the support of any sectarian or denominational school.

Mr. GALLINGER. I will ask that that amendment may go over. I desire to be heard very briefly on it, and there will not be time this morning. I presume the Senator from Nevada will agree that it shall go over.

Mr. STEWART. Certainly.

The PRESIDENT pro tempore. The amendment will be passed over.

Mr. MALLORY. Has the amendment been passed over?

Mr. GALLINGER. It has been passed over.

The next amendment was, under the head of "Miscellaneous supports and gratuities," on page 23, line 18, to increase the appropriation for support and civilization of the Arapahoes and Cheyennes who have been collected on the reservations set apart for their use and occupation, from $35,000 to $40,000.

The amendment was agreed to.

The next amendment was, on page 25, line 5, to increase the appropriation for the support and civilization of Indians at Fort Berthold Agency, including pay of employees, from $20,000 to $30,000.

The amendment was agreed to.

The next amendment was, on page 25, after line 6, to insert:

For the construction of fence on said Fort Berthold Indian Reservation, under the direction of the Secretary of the Interior, to be immediately available, $5,000: *Provided*, That so far as it can be done Indians of said reservation shall be exclusively employed in the construction of said fence.

The amendment was agreed to.

The next amendment was, on page 26, after line 13, to insert:

That the Secretary of the Interior is hereby authorized to appoint a commission to consist of one representative of the Indian Office and two other persons, of whom one shall be a citizen of the State of California, to investigate existing conditions and to report some plan to improve the condition of the California Indians, said commission to be allowed its actual and necessary traveling and incidental expenses and the services of a stenographer and of an interpreter when such services are necessary, for which expenses and services the sum of $1,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The next amendment was, at the top of page 27, to strike out:

For fencing division line between the relinquished and diminished portions of the Round Valley Indian Reservation, Cal., $2,500, to be reimbursed to the Treasury of the United States out of any money received from the sale of the said relinquished lands.

The amendment was agreed to.

The next amendment was, on page 27, line 19, to increase the appropriation for support and civilization of Shoshone Indians in Wyoming from $15,000 to $20,000.

The amendment was agreed to.

The next amendment was, under the head of "General incidental expenses of the Indian service," on page 29, line 15, to increase the total appropriation for general incidental expenses of the Indian service in Nevada, including traveling expenses of agents, etc., from $8,000 to $9,900.

The amendment was agreed to.

The next amendment was, on page 30, after line 3, to insert:

For the purpose of carrying into effect the agreement entered into on the 17th day of June, 1901, by and between James McLaughlin, United States Indian inspector, on the part of the United States, and the Klamath and Modoc tribes and the Yahooskin band of Snake Indians, belonging to the Klamath Agency in the State of Oregon, set forth in the report of the Secretary of the Interior reporting the same to Congress and printed in House of Representatives Document No. 79, Fifty-seventh Congress, first session, the sum of $537,007.20 is hereby appropriated out of any money in the Treasury not otherwise appropriated, and the said agreement is hereby ratified and confirmed. Of the said sum so appropriated, $350,000 shall be deposited in the Treasury of the United States to the credit of said Indians and the remainder shall be expended as provided in the third article of said agreement.

THE IMPEACHMENT TRIAL.

Mr. HALE submitted the following resolution; which was read:

Resolved, That all proceedings in the impeachment trial now before the Senate sitting as a court shall be terminated on Saturday, February 25 next, and a final vote shall be taken on the afternoon of that day at 4 o'clock.

Mr. HALE. I ask that the resolution may go over, but I shall call it up to-morrow and ask for its passage.

The PRESIDENT pro tempore. It will go over on the request of the Senator from Maine.

HOUSE BILL REFERRED.

H. R. 18467. An act making appropriations for the naval service for the fiscal year ending June 30, 1906, and for other purposes, was read twice by its title, and referred to the Committee on Naval Affairs.

IMPEACHMENT OF JUDGE CHARLES SWAYNE.

The PRESIDENT pro tempore. The hour of 2 o'clock has arrived, to which the Senate sitting as a court of impeachment adjourned. The Senator from Connecticut will please take the chair.

Mr. PLATT of Connecticut assumed the chair.

The PRESIDING OFFICER (Mr. PLATT of Connecticut). The Senate is now sitting in the trial of the impeachment of Charles Swayne, United States judge in and for the northern district of Florida. The Sergeant-at-Arms will make proclamation.

The Sergeant-at-Arms made the usual proclamation.

The PRESIDING OFFICER. The Sergeant-at-Arms will ascertain whether the managers on the part of the House are in attendance.

The managers on the part of the House of Representatives appeared, and were conducted to the seats assigned them.

The PRESIDING OFFICER. The Sergeant-at-Arms will ascertain whether counsel for the respondent are in attendance.

Judge Charles Swayne, accompanied by Mr. Higgins and Mr. Thurston, his counsel, entered the Chamber and took the seats assigned them.

The PRESIDING OFFICER. The Journal of the proceedings of the last trial day will be read.

The Secretary read the Journal of the Senate sitting for the trial of impeachment of Charles Swayne Monday, February 20.

Mr. HALE. Mr. President, I ask that any rule which exists limiting proceedings in impeachment trials may be read to the Senate, and I also ask that the resolution submitted to the Senate in legislative session may now be read.

The PRESIDING OFFICER. The Secretary will read the resolution submitted in legislative session.

The Secretary read the resolution previously submitted by Mr. HALE, as follows:

Resolved, That all proceedings in the impeachment trial now before the Senate sitting as a court shall be terminated on Saturday, February 25 next, and a final vote shall be taken on the afternoon of that day at 4 o'clock.

Mr. MONEY. Mr. President, I should like to amend the phraseology of that resolution.

Mr. HALE. I do not offer it for action, because, of course, we can not act upon it now.

Mr. MONEY. I am speaking only as to the phraseology. The language of the Constitution is "the Senate sitting in impeachment trials." It does not anywhere say "sitting as a court."

Mr. HALE. When the Senate comes to consider the resolution in legislative session the form can be adjusted to suit the Senator.

Mr. BACON. I should like to understand the Senator. He says he does not now offer it.

The PRESIDING OFFICER. The resolution is not now before the Senate. It went over until to-morrow.

Mr. MONEY. I have suggested an amendment to it.

The PRESIDING OFFICER. With regard to the rules limiting the time, the Presiding Officer knows only of these rules:

XX. All preliminary or interlocutory questions, and all motions, shall be argued for not exceeding one hour on each side, unless the Senate shall, by order, extend the time.

The other is Rule XXIII:

XXIII. All the orders and decisions shall be made and had by yeas and nays, which shall be entered on the record, and without debate, subject, however, to the operation of Rule VII, except when the doors shall be closed for deliberation, and in that case no member shall speak more than once on one question, and for not more than ten minutes on an interlocutory question, and for not more than fifteen minutes on the final question, unless by consent of the Senate, to be had without debate; but a motion to adjourn may be decided without the yeas and nays, unless they be demanded by one-fifth of the members present. The fifteen minutes herein allowed shall be for the whole deliberation on the final question, and not to the final question on each article of impeachment.

Mr. FRYE. Mr. President, read Rule XXI, please.

The PRESIDING OFFICER. Rule XXI is as follows:

XXI. The case, on each side, shall be opened by one person. The final argument on the merits may be made by two persons on each side (unless otherwise ordered by the Senate, upon application for that purpose), and the argument shall be opened and closed on the part of the House of Representatives.

The Presiding Officer has noticed that in the Belknap impeachment trial questions arose at various times as to what amount of time should be given the managers and counsel for the respondent, respectively, in the argument of motions which were made, and that when those questions arose the Senate withdrew to its conference chamber and made an order as to the amount of time which might be taken by managers on the one side and counsel on the other.

Mr. HALE. Mr. President, I am familiar with the rules that have been read. My object in introducing the resolution which has just now been read in the Senate in legislative session was to lay the foundation for action on the part of the Senate, so that this proceeding may be limited and may not confiscate the entire time of the Senate. At a proper time in the Senate, as no rule limits this proceeding except in certain cases, I shall ask that the Senate shall formulate a body of rules, and I give notice now that the provisions which have just been read with relation to arguments to be made, so far as I am concerned, will be insisted upon literally.

Mr. Manager PALMER. Mr. President, I do not understand that there is any resolution or motion before the Senate at this time.

The PRESIDING OFFICER. There is none.

Mr. Manager PALMER. On the part of the managers I will say that if this proceeding is to be closed on Saturday at 4 o'clock in the afternoon we can of course make no objection to any order the court may make. Whether the testimony is ended or the arguments are concluded at that time will depend entirely upon how much time the Senate is willing to devote to this matter. The managers will ask, when the case comes to be closed, for six hours in which to argue it. The rule confines the argument to two managers. I suppose there will be no objection to fixing some limit of time and allowing the managers to dispose of the time to suit themselves among themselves. It would not make any difference to the Senate whether two managers argued six hours, or whether five managers were allowed to go on for that length of time.

Mr. HALE. If the Presiding Officer will allow me——

Mr. BACON. I suggest that no discussion of this kind on the subject raised by the Senator from Maine is now in order, and it should not be permitted.

Mr. HALE. The Senator is correct, undoubtedly.

Mr. Manager PALMER. I understand perfectly that there is no discussion in order, but I simply remarked that if this case is to be heard and tried and must be finished on Saturday, the evidence on the other side may take until Saturday. We do not know how long they are going to take on their side, and we expect at least to have a few minutes to present the case to the Senate after it is concluded. As it will be observed, the case has been divided among the managers and each one has taken a particular branch of it, and if there is to be any presentation of

the case, the gentlemen who have paid their attention to each particular branch must have some opportunity to say something on the parts of which they have had control.

Mr. BACON. I wish to say, in justice to myself, that what I said to the Chair was not designed to cut off the manager. I supposed he had concluded, and my criticism was really directed to the point that the matter had not been brought up at this time and I did not think it was the proper time for its discussion.

The PRESIDING OFFICER. Is Mr. Higgins, of the counsel, ready to proceed?

Mr. HIGGINS. Yes, sir, Mr. President.

The PRESIDING OFFICER. The counsel will proceed.

Mr. HIGGINS. I wish to assure the Senate, Mr. President, that it will be my endeavor to make my remarks as brief as possible consistent with the presentation of the case.

I wish to call attention to the fact that this is a court of first instance when the facts are first being presented to the tribunal and not a supreme court or superior court when matters of law alone are discussed after the facts have been settled and printed briefs reduce the time that counsel need to consume in the presentation of the case so as to make it fair both to them and to the interests they represent.

We propose, Mr. President, to present evidence on behalf of the respondent to contradict the statement of Belden and Davis that they made any statement to Judge Swayne at the hearing of their contempt proceedings before him, that they were not aware of the statement made by him on the 5th day of November on which he disclaimed any interest in the property in question.

We will further bring before the Senate evidence that they had been in telegraphic correspondence with Judge Pardee on this question arising out of their knowledge that Judge Swayne had disclaimed any such interest.

We will further show that on the habeas corpus before the circuit court of appeals they presented a number of new reasons—I think as many as seventeen, but that is enough, anyway—why the court should reverse the ruling below, but those reasons contained no statement that they had told the judge at the hearing that they had not heard him disclaim his interest in this property.

We further call the attention of the court to the testimony of the plaintiffs before the investigating committee, of those witnesses and parties, that there they made no such claim.

Now, proceeding with the discussion of the question, we submit:

Fourth. But whether or no the allegations and proofs bring the case within the true intent and meaning of section 725, Revised Statutes of the United States, it was within the jurisdiction of respondent, sitting as judge in this cause, to try and determine that very question, and a wrongful determination thereof was a judicial act, for which he is not impeachable, unless he so held from a corrupt or malicious intent, which intent is wholly lacking in this cause, and can not be presumed from the fact that in imposing sentence he exceeded the law.

(1) The United States circuit court had jurisdiction to try and determine whether the acts of alleged contempt were within section 725 of the Revised Statutes.

I refer the Senate to what is already contained in the RECORD and in my remarks of what was stated on that subject by Judge Pardee on the habeas corpus. Having jurisdiction of the persons, namely, Belden and Davis, and of the subject-matter, namely, that they were charged with contempt, and, therefore, having jurisdiction to determine whether the conduct complained of was within the limitations of section 725 of the Revised Statutes, the decision of Judge Swayne upon that question was a judicial act, and therefore one for which he was not liable in a civil action to Davis and Belden, but subject only to impeachment if his decision was either malicious or corrupt.

I now ask the Secretary to read what is said in Bradley *v.* Fisher by the Supreme Court on that subject.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

In Bradley *v.* Fisher (15 Wall.) the court says:

"The exemption of judges of the superior courts of record from liability to civil suit for their judicial acts existing when there is jurisdiction of the subject-matter, though irregularity and error attend the exercise of the jurisdiction, the exemption can not be affected by any consideration of the motives with which the acts are done. The allegation of malicious or corrupt motives could always be made, and if the motives could be inquired into judges would be subjected to the same vexatious litigations upon such allegations, whether the motives had or had not any real existence. Against the consequences of their erroneous or irregular action, from whatever motives proceeding, the law has provided for private parties numerous remedies, and to those remedies they must in such cases resort. But for malice or corruption in their action whilst exercising their judicial functions within the general scope of their jurisdiction, the judges of these courts can only be reached by public prosecution in the form of impeachment, or in such other form as may be specially prescribed."

Mr. HIGGINS. Mr. President, I ask leave to place in the RECORD citations from the Supreme Court in the case of in re Cuddy, petitioner (131 U. S., 280, 295), and in O'Neal *v.* United States (190 U. S., p. 36) without reading.

The PRESIDING OFFICER. If there be no objection on the part of Senators or on the part of the managers, the matter referred to may be inserted in the RECORD without reading. The Chair hears no objection.

The matter referred to is as follows:

In Cuddy, petitioner (131 U. S., 280, 295), the Supreme Court held that—

"A petitioner for a writ of habeas corpus to obtain his discharge from imprisonment under the judgment and sentence of a district or circuit court of the United States for contempt is at liberty to allege and to prove facts, not contradicting the record, which go to show that the court was without jurisdiction."

The court say:

"If the appellant had alleged such facts as indicated that the misbehavior with which he was charged was not such as, under section 725 of the Revised Statutes, made him liable to fine or imprisonment, at the discretion of the court, he would have been entitled to the writ, and, upon proving such facts, to have been discharged."

In O'Neal *v.* The United States (190 U. S., 36) the Supreme Court say:

"Jurisdiction over the person and jurisdiction over the subject-matter of contempts were not challenged. The charge was the commission of an assault on an officer of the court for the purpose of preventing the discharge of his duties as such officer, and the contention was that on the facts no case of contempt was made out.

"In other words, the contention was addressed to the merits of the case and not to the jurisdiction of the court. An erroneous conclusion in that regard can only be reviewed on appeal or error, or in such appropriate way as may be provided. Louisville Trust Company *v.* Comingor. (184 U. S., 18, 26.)"

Mr. HIGGINS. Was the conduct of Judge Swayne malicious in delivering this judgment and in imposing these penalties? It is not charged that it was corrupt. I shall not repeat the argument I have already submitted that these attorneys had misbehaved in violation of all three branches of section 725, and that Judge Swayne did right in holding them guilty and in punishing them; but the learned manager who opened the case contended further in his third proposition (record, p. 75) that Judge Swayne abused his power and should be convicted because his sentence was unlawful. Until this proposition is supported by some authority I shall not take the time of the court to reply to it.

We have just seen that a judge is not liable to a civil suit or to impeachment for a mere mistake of judgment, but only where his conduct is malicious or corrupt.

But under his fourth proposition the learned manager plants himself on the ground that—

If ignorant of the law he imposed the unlawful sentence with malice he is subject to impeachment, and no man can say nay. (P. 77.)

He then proceeds to state his grounds of malice, which I shall endeavor to consider. Among his grounds for alleged malice are those which I now ask the Secretary to read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

(1) That the Judge did not himself, on his own motion, call the offending lawyers before the bar of the court, state to them the charges, submit to them the interrogatories that the law prescribes in every case of indirect contempt, and give them the opportunity to which they were entitled to purge themselves on oath. Since Blackstone wrote the law has never been changed in this particular.

"If a party can clear himself on oath, he is discharged." (Burke *v.* The States, 214 Ind., 528; 4 Bl. Com., 286, 287; Wilson *v.* Walker, 82 N. C., 95; U. S. *v.* Dodge, 2 Gall., 313, Circuit Court of the United States, first circuit of Massachusetts; in re John I. Pitman, 1 Curtis, 189; in re Wilson *v.* Walker, 82 N. C., 95.)

But Judge Swayne chose a different course. He selected the one man whose grist he had insisted upon grinding in his judicial mill, and who had been able, through Judge Swayne's refusal to recuse himself, to force a discontinuance of the case, and who might, therefore, be supposed to feel willing to do the dirty work of the Judge, to institute and prosecute the proceedings for contempt. This course indicated what Judge Swayne was after, and the state of mind with which he went for it.

Mr. HIGGINS. Mr. President, you have here the beginning of the case made by the managers why this judge having jurisdiction in the exercise of the judicial judgment should be convicted of having done it maliciously, so that you should convict him here. I beg to say that, in my opinion, it would be difficult to find in a paragraph so short so many misstatements both of law and fact.

In respect of each and every matter here not merely complained of by the learned manager, but soberly and gravely imputed by him to the judge as clear evidence to convict him of malice, I submit that Judge Swayne acted with absolute propriety. In every instance he did the right thing; and every criticism the learned manager makes does violence to the deliberate utterance of the Supreme Court of the United States on the subject.

First. The judge did right to have the charge made and supported by Mr. Blount. Mr. Blount was himself one of the defendants. He was leading counsel for all the defendants. He, more than any person connected with the case against the City Company, was the "party aggrieved." Of course the judge himself was, more than any other individual, the aggrieved party, but only in his character as judge. The indignity, resistance, and contempt was of the court. It was therefore peculiarly proper and right for the court to be represented by a member of the bar acting as amicus curiæ, and it was a coincidence singularly happy that the "aggrieved party" to the suit was a lawyer and counsel for the defendants, and, moreover, the leader of the bar of that court, a leader of the bar of the circuit, and in the very front rank of the bar of the United States.

(2) There was no law or rule requiring the charges or motion of Mr. Blount to be sworn to, or

(3) That the interrogatories should be propounded to Davis and Belden.

In those three remarks I have covered the three causes of contempt set forth in what I had read by the Secretary. In fact all these details were within the control and regulation of the court. And the regulations made by the court were proper, namely, a written motion, notice thereof to the defendants, and a rule on them to show cause. This gave them the opportunity to answer, under oath, if they elected so to do. Now, that parties by statute can testify in their own behalf, the reason for propounding interrogatories has passed away. This course of proceeding, so strictly in accordance with the decision in the Savin case, is made by the honorable managers the evidence of malice upon which they in part ground their case.

I would now ask the Secretary to read what is said by the Supreme Court in re Savin. (131 U. S., 267.)

The PRESIDING OFFICER. The Secretary will read.

The Secretary read as follows:

It is, however, contended that the proceedings in the district court were insufficient to give that court jurisdiction to render judgment. This contention is based mainly upon the refusal of the court to require service of interrogatories upon the appellant, so that, in answering them, he could purge himself of the contempt charged. The court could have adopted that mode of trying the question of contempt, but it was not bound to do so. It could, in its discertion, adopt such mode of determining that question as it deemed proper, provided due regard was had to the essential rules that obtain in the trial of matters of contempt.

This principle is illustrated in Randall *v.* Brigham (7 Wall., 523. 540), which was an action for damages against the judge of a court of *general jurisdiction*, who removed the plaintiff from his office as an attorney at law on account of malpractice and gross misconduct in his office. One of the contentions was that the court never acquired jurisdiction to act in his case, because no formal accusation was made against him, nor any statement of the grounds of complaint, nor a formal citation against him to answer them.

The court, after observing that the informalities of the notice did not touch the question of jurisdiction, and that the plaintiff understood from the notice received the nature of the charge against him, said: "He was afforded ample opportunity to explain the transaction and vindicate his conduct. He introduced testimony upon the matter, and was sworn himself. It is not necessary that proceedings against attorneys for malpractice or any unprofessional conduct should be founded upon formal allegations against them. Such proceedings are often instituted upon information developed in the progress of a cause, or from what the court learns of the conduct of the attorney from its own observation. Sometimes they are moved by third parties upon affidavit, and sometimes they are taken by the court upon its own motion. All that is requisite to their validity is that, when not taken for matters occurring in open court in the presence of the judges, notice should be given to the attorney of the charges made and opportunity afforded him for explanation and defense. The manner in which the proceedings shall be conducted, so that it be without oppression or unfairness, is a matter of judicial regulation."

So, in the present case, if the appellant was entitled of right to purge himself, under oath, of the contempt, that right was not denied to him; for it appears from the proceedings in the district court, made part of the petition for habeas corpus, not only that he was informed of the nature of the charges against him by the testimony of Flores, taken down by a sworn stenographer at the preliminary examination, but that he was present at the hearing of the contempt, was represented by counsel, testified under oath in his own behalf, and had full opportunity to make his defense.

Mr. HIGGINS. So that it appears from the decision of the Supreme Court that the motion need not be sworn to; that interrogatories need not be propounded, and that everything that was done under the rule was fair. But I may be excused for referring to an authority that may appeal even more strongly to my learned opponents, and that is a passage from the report of the majority of the House Committee on the Judiciary advising the impeachment of Judge Swayne. I find it incorporated in the opening speech of the chairman of the learned managers. I ask the Secretary to read it.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

Presuming that Judge Swayne knew the law he knew that proceeding for a contempt not committed in the presence of the court must be founded on an affidavit setting forth the facts and circumstances constituting the alleged contempt, sworn to by the aggrieved party or some other person who witnessed the offense. Unless such affidavit be presented process will not be granted. (Burke *v.* The State, 47 Ind., 528; Batchelder *v.* Moore, 42 Cal., 412; Rapalje on Contempts, p. 122.)

Mr. HIGGINS. I erred in stating that the extract was from the speech the learned manager made before the Senate. It was in a debate in the House. But so it appears, Mr. President, that at that time Judge Swayne was deserving of impeachment because he had not had the motion presented by an aggrieved party under oath, the Supreme Court thinking that it did not have to be under oath. Where the aggrieved party presents it he is the person, in the opinion of the learned manager, "whom the Judge takes to do his dirty work, having been grinding his grist at the Judge's mill."

Now, Mr. President, I think that I have rather with this quotation shifted the issue as to where the malice is; that after this the burden of showing that he did not act with malice is taken off from Judge Swayne, when this ungrounded and unnecessary attack was made at once upon him and upon as blameless and eminent a lawyer in the person of Mr. Blount as can be found at the American bar.

Finally, the learned manager plants himself on the proposition that for imposing an illegal sentence—both fine and imprisonment when the law made the penalty in the alternative—Judge Swayne should be convicted by this court because he did it with malice. This argument can only go upon the theory that the double punishment was so severe as to prove malice. That brings me to the contention that the malice of the Judge is conclusively proven by the severity of the sentence—ten days in jail and a hundred dollars fine—and the severity of the reproof he administered to the attorneys in imposing sentence.

Before that, I beg to call the attention of the court to the part of the sentence as originally imposed that disbarred these attorneys for a term of two years. It is claimed that that showed malice because it was unlawful. I would again bring the attention of the Senate to the case of Bradley *v.* Fisher. That was not a case of contempt. That was a case of disbarment. Mr. Bradley, after the judge had descended from the bench and was about leaving the courtroom, if he had not got upon the street, approached him and threatened to chastise him. For that, the judge, sitting in the court, without a hearing and without a rule, sentenced him to disbarment. The Supreme Court of the United States set aside the judgment because Mr. Bradley had not had his day in court, but in their opinion they took occasion to lay down what has already been read in the course of my remarks, as to their sense of the duties of attorneys, and further if a rule had been laid against Mr. Bradley and the case had been made against him for the act for which he was held to have offended, that it was within the jurisdiction of that court to have punished him by disbarment; but a rule ought to be laid for that purpose.

The case against Davis and Belden was a proceeding for contempt. It was not a proceeding for disbarment, but though the sentence of disbarment was illegal because a rule for disbarment had not been laid, it would have been absolutely within the right of the judge to have so sentenced them if he had laid a rule for disbarment; and I submit to the Senate that a case was made out here where that right ought to have been exercised, for if ever there was a case where a court had been treated with scandalous contempt, it was by these two attorneys in this case.

But they say the severity of the punishment—ten days in jail and $100 fine—is proof of malice. When it comes to authority, it was the opinion of Mr. Buchanan, one of the managers in the Peck case, that twenty-four hours was a very shameful and outrageous punishment; but it so happens that the learned manager himself suggests that if Judge Swayne had imposed twenty-four hours upon these defendants it would have been proper. So that what the learned manager thinks is proper Mr. Buchanan seventy-five years ago thought was excessive.

Well, the whole thing is relative. "Times change and men change with them." I can only say, without having searched the cases to find the maximum of punishment in such cases, that I would call attention to a recent case in 121 Federal Reporter, where the three circuit judges of the ninth circuit of the Pacific coast sentenced Wood and Frost—one of them United States attorney for Alaska and both of them attorneys of the court—one to four and the other to twelve months' imprisonment. I also beg to call the attention of the Senate for a moment to the very great difference between the gravity of the offense of Davis and Belden as comparted with that which was charged against Lawless in Judge Peck's case. That case—as does this—grew out of a Spanish grant where there were a number of claims under different grants, and it was a test case. Lawless printed in a St. Louis newspaper an article with seventeen paragraphs of what he called the assumptions of law and

of fact of Judge Peck that were erroneous. On its face it bore no evidence of contempt, but was in every way respectful.

The question, therefore, arose in that case whether it was a contemptuous proceeding. Another question was whether it did not interfere with the liberty of the press. It was altogether different from the bringing of an unfounded suit against a judge to affect and influence him in orders that he had made in his court, and publishing an article in a newspaper that impeached his veracity in the community where he held the court.

Now, when it comes to what was said, Judge Peck's manner was criticised. Judge Swayne's has also been. We will give you the testimony of witnesses in the court who will tell you how his manner impressed them. What was said appears in a newspaper taken at the time by the reporter. We will show you what the other newspaper printed about it. The newspaper reports and the newspaper reporters themselves tell you that the Judge showed sadness in imposing penalty upon a man of Mr. Belden's age. It is said he called them ignorant. Well, it was charitable if he did—if he imputed what would otherwise be lawless conduct to ignorant conduct. Whether he said their conduct was a stench in the nostrils of the community or not is a matter that will be in dispute and we consider it immaterial whether he did it or not.

In O'Neal's case the Supreme Court said that sui generis it was a criminal proceeding; a criminal proceeding it was. The Judge was delivering a sentence in a criminal case, and it was not for him or any court in this Republic to know the difference between the standing of the men who had violated its laws. I do not care if a man is a member of that great profession which those who belong to it feel is their chiefest honor. If one of them, the votary of the law, the custodian of its honor, of that bar upon which lawyers know the American bench rests for the respect in which the community hold it—if those high priests of that temple defame and deface it they deserve to be held up to public approbrium as much as the lowest criminal in the land. So much for the Davis and Belden case, Mr. President.

I think the Senate will agree that the O'Neal case has been treated with scant consideration. Very little was said about it by the learned manager who opened the case, and the manager who has charge of its prosecution submitted the record evidence, the stenographic report of the testimony. So while it is all printed in the record, it has not been heard in the Senate. Under the admonition of the resolution which has been presented to the Senate this afternoon, I shall not undertake to go into its facts at all in detail. I content myself at the outset with the baldest and briefest summary of its points.

One Scarritt Moreno was adjudged a bankrupt, and Adolph Greenhut in due course was chosen his trustee, a trustee under the bankruptcy act being the name given to a receiver. He gave bond, qualified, was in discharge of the duties of his office under the powers conferred by the bankruptcy act itself.

On Saturday afternoon, the 18th of October, 1902, Greenhut, through his counsel, filed a bill in equity in the circuit court of Escambia County, Fla., against Scarritt Moreno, his wife, the Citizens' National Bank, of Pensacola, and the American National Bank, of Pensacola, of which last bank William C. O'Neal was the president. The bill set up that certain mortgages had been given by Moreno, the bankrupt, with his wife; that they were given without value, were fraudulent as against creditors, and had been assigned to these banks, and to the American National Bank among the others, with the knowledge on the part of the assignee of the vice and fraud of the original transaction.

On Monday morning Greenhut was talking with a friend at the door of his place of business, on the street, when O'Neal came up and said he wanted to see him. Greenhut told him he would see him in his store, and they went in. When they emerged they were clinched, and O'Neal had cut Greenhut from the ear to his lip, presumably in an effort to get at the jugular vein; had stabbed him three other times—over the ribs, over the hip, and in the elbow.

There are some discrepancies between the testimony of O'Neal and Greenhut, the only people who were present, but enough appears in the testimony, in the answer of O'Neal and his testimony, I believe, to make it clear that he was guilty, as the Judge found. I will ask the Secretary to read so much of his answer as is contained in the clipping I send to the desk.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

That it is not true that the assault charged in the said affidavit was committed by the respondent solely because and for the reason that the said Greenhut had instituted the suit aforesaid against the said American National Bank, or to interfere with and prevent him, the said Greenhut, from exercising and performing his duties as an officer of this court. That in truth the respondent never contemplated at any time any interference with the said Greenhut as trustee as aforesaid, or contemplated any affray with the said Greenhut, or any personal conflict with him until he saw the threatening attitude of the said Greenhut toward him, the respondent, as hereinbefore set forth, and that so far as respondent can determine from the actions of the said Greenhut, who was the aggressor as aforesaid, the cause of the said affray was the remark of respondent to the said Greenhut concerning the said Greenhut's action in repudiating his obligation to pay the said acceptance.

And respondent disclaims the existence on his part at any time of any intent to interfere with, prevent, impede, or delay the said Greenhut in the prosecution of the said suit against the said bank, or to interfere with or impede or prevent him in anywise in the execution or performance of any of his duties as such trustee; and specially disclaims any intent to do any act which might savor in the slightest degree of contempt of this honorable court.

W. C. O'NEAL.

Mr. HIGGINS. Now, I will ask the Secretary to read from O'Neal's examination in court.

The Secretary proceeded to read from the testimony of Mr. O'Neal.

The PRESIDING OFFICER. The Secretary will suspend for a moment. Why does the counsel claim that this is proper in an opening? The Presiding Officer supposed that the opening of a case on the part of the managers or on the part of counsel should be limited to a statement of the issues raised in the case, and what the parties propose to prove, either for the prosecution or the defense. How do these extracts which the Secretary has been asked to read fall within what the Presiding Officer supposes to be the proper line of an opening on behalf of the respondent?

Mr. HIGGINS. I will state, Mr. President, in the first instance, that a perusal of the statements of counsel in the Peck case shows that the managers went very fully into the merits of the case on the argument. Mr. Meredith, in opening for the respondent, did not. I thought, therefore, that I was entirely within the rules of this anomalous proceeding, which is not by common law, is not in equity, but is according to the lex et consuetudo parliamenti. The articles and answers are drawn from the civil law. They are not known to our own practice, and therefore I have supposed that it was a proceeding where the largest latitude was given to counsel in the first instance.

In the second place, I desire to say, Mr. President, on this interesting point that the Greenhut testimony has not been read, and it is impossible to get a statement of the issues without it. I could have had read the affidavit of Greenhut; I could have read Greenhut's testimony, so as to get them before the court as to what they would show, but I have elected to leave them out, and was stating what O'Neal's was. Moreover I thought it was the shortest way in which I could proceed.

The PRESIDING OFFICER. The Presiding Officer, of course, does not wish to limit counsel for respondent as to any of their just rights, but as was suggested a moment ago the Presiding Officer supposed that an opening on behalf of the person accused was to be confined strictly to the issues raised and what the counsel expected to prove, and how they expected to be able to prove it. This opening seems to have taken the form of an extended argument on the whole case, which the Presiding Officer had supposed would be more proper, to say the least, when the case came to be finally argued. Perhaps the Presiding Officer is only expressing a little the impatience of the Senate, and without attempting to fix limits, he wants to suggest that the opening should be concluded as quickly and as rapidly as counsel feel that it can be in presenting their case to the Senate.

Mr. HIGGINS. It is due to myself and my colleague to add to the other reasons that I have just given for the course we have taken the fact that the opening of the learned manager was in itself argumentative; and I have felt that it was incumbent upon me, in due regard to the interests of the respondent, that there should be fully presented to the Senate at this time the merits of this case as far as the testimony goes and as to what we propose to prove.

I wish, however, to say further that I propose to allow this testimony of O'Neal's to go without further comment by me. So I shall take but very little time on that point. If the Chair will permit the reading of that testimony to be completed, I will take that course.

Mr. Manager OLMSTED. Mr. President, may I make a mere suggestion at this time? While we have not cared to object, we have observed that for two hours and a half the honorable counsel has been discussing the evidence we have put in without telling us anything about what they propose to prove. We merely ask that the character of the argument which he has made, and which might more properly be made in closing, may be taken into consideration when the allotment of time for the closing arguments is considered.

The PRESIDING OFFICER. The Presiding Officer would

perhaps have made no suggestion in this matter if it had not been for the extreme pressure on the time of the Senate.

The Secretary resumed and concluded the reading of the extract from Mr. O'Neal's testimony, which is as follows:

Q. Now, then, you proceeded until you came to Mr. Greenhut's, did you?—A. Yes, sir.

Q. Then state what occurred—exactly what occurred thereafter, anything and everything from the moment that you addressed him until the time that you were finally taken apart.—A. I passed down the street, and I saw Mr. Greenhut and Mr. Lischkoff talking. I spoke to both. I says, "Good morning," and I says, "Mr. Greenhut, I would like to see you when you are at leisure," and Mr. Greenhut said, "I am at leisure now," and I says to Mr. Greenhut, "Don't let me interrupt you; any time during the day will do," and Mr. Lischkoff says, "I am through," and he left or started to turn to go back up the street toward his place of business, and Mr. Greenhut says, "Come in." He stepped back into the back part of his office there and I went on (in), and I asked him why he had sued us. He says, "Well, I do not know anything about it; you will have to see my lawyer about it." I says, "Mr. Greenhut, I think you do know something about it. I think you were a director of the American National Bank when this paper that I am sued on was sold and transferred," and I says, "We did not sue you when we had to sue you without seeing you about it or without talking to you about it. We did everything we could to avoid the suit; we did everything we could to get a settlement of that before we sued you," and I talked on with him regarding this matter in that way, and I reminded him of the fact that Mr. Eagan had tried to get a settlement with him before we sued him on the $1,500 debt, and I found out after talking with him it seemed it was impossible to get a settlement with him that way, and I says to him—I finally told him that I thought that if he had been a gentleman he would not have done it, and he said, "I am as much a gentleman as you are"—being a director in the bank and refusing to pay a paper and letting us sue him on it, and he says he was as much of a gentleman as I am. I says, "Mr. Greenhut, I won't dispute that with you on that point. I do not want any trouble with you," and when I said that to him, why, he made a motion that way, like he would strike me with his fist, and says, "If you fool with me I will do you up here," and I says, "No, I reckon not," and I stood there for a moment hesitating, and I turned to go out. He come on following me and he said something to me. I do not know what he said, and when he said that I told him that he lied to me about the Moreno paper, and as I told him that I turned around, and Mr. Greenhut he struck me here, and I struck him with my left fist, and then I shoved him off, and when I shoved him back he kind of stumbled back like—he looked to me like he almost fell down; then he came forward at me and I pulled out my knife and cut him, and we fought on out on the street there, and I made several lunges for him and he hit me several licks with his fist, and finally he caught hold of my arm here with his right hand, and after he caught my arms I reached around and caught hold of his other arm out in the streets, and then I holloed to old man Hyer to come there and get him——

Mr. HIGGINS. Mr. President, I will leave the facts of the O'Neal case where I had intended to leave them if I had not received the admonition, thinking that a general demurrer to the evidence before any intelligent and capable judge, let alone such a tribunal as this, is sufficient, as there is enough to show that there was the fullest ground for the course which the Judge took; that the answer was evasive, and, under the law as laid down by Blackstone, and not changed since, it was a contempt that the Judge was right in punishing. I shall not at this time add more to what I have already said in the O'Neal case.

Now, taking next the subject of residence, as set forth in the sixth and seventh articles, the case made by the learned managers in this is that Judge Swayne did not reside in his district because he did not reside in Pensacola, where he claimed to reside, and did reside at another fixed and given place, namely, Guyencourt, Del.

I will relieve the concern of the learned manager who ventured to call attention to my failure to state what witnesses we would produce, by assuring him that we will produce witnesses, good Delaware witnesses, neighbors of Judge Swayne, neighbors of his father and his mother, who know all about the family, and we will establish by their testimony beyond any question, as we are instructed, that Judge Swayne was only a summer visitor to Guyencourt, and never since he moved to Florida had his residence there. We will lay before the Senate the certificate of the courts where he held court out of his district, beginning with 1895; when he held court in Texas, in New Orleans, in Baton Rouge, in Huntsville, running through a period of five years.

We will show that a judge in Texas was stricken with softening of the brain and unable to hold court, and hence Judge Swayne had to do service in that district for years; that another judge was interested in a bank that failed, and Judge Swayne held two long trials in respect of that; that from the district to which he had originally been appointed, when the northern district of Florida included the Jacksonville section of the State, twenty counties were taken when the district was curtailed by the act of July, 1894; that thereupon Judge Swayne informed his friends, whom we will produce here, that he had, in pursuance of that statute, determined to make his residence in Pensacola; that as reasonably early as could be his family were brought there; but that the circuit judges, finding here a judge in the circuit with a district so curtailed by the act of Congress that he had time on his hands, drafted him for this service elsewhere.

We will further show by the testimony of witnesses that Judge Swayne was unable to find a suitable house, and hence did not bring his family there at once. We will further show that one or another of his children was pursuing his or her studies in Philadelphia, and that because of these three causes—the absence of the Judge from his home in holding court elsewhere for six or eight months in a year, because of his inability to get a suitable house, and the facts as to his children—his family did not go there until 1900, except as they paid him visits; that during one year his family went to Europe. They spent another winter in the city of Wilmington, the only time they spent a winter in Delaware; that one of his sons was grievously stricken with nervous prostration, from which he has not yet recovered, and that that controlled his domestic relations very much, and that because of all these facts it so happened that this was a broken household and not one that was held together as households ordinarily are.

We will show that the ordinary presumption that a man resides where his family resides is not the presumption of law nor a conclusive presumption either of fact or of law; that it is a presumption of fact of more or less weight, as an ordinary thing, but that it is rebuttable, as shown by the decisions of the Supreme Court of the United States, which I am prepared to bring to the attention of the Senate at this time; and that in this case all of these reasons prevented and kept the family of Judge Swayne from going to Pensacola to reside until 1900; and that the witnesses who testified here that the Judge did not live there were mistaken, going on the idea that where a man's family is there is where he lives, and that because he went away from Pensacola they assumed that he did not live there, they not knowing whether he was going to Texas, or to New Orleans, or Alabama, or some other place to hold court. So much for the residence.

I now come to the article upon the subject of false claim, false pretenses, leveled against Judge Swayne because under the act of Congress in that behalf he certified his expenses at $10 a day. If this were an ordinary criminal case in a customary criminal court, I think the counsel for the defendant would be within their rights in moving that the jury be instructed to bring in a verdict for the defendant on the ground that no evidence has been brought here to show that Judge Swayne did not spend $10 a day. But we do not choose to stand upon the mere negation of evidence in that respect. We shall bring before the Senate the fact and certificates which show that the accounts of the Judge were passed upon by a succession of officers.

In the first instance, under the statute, it is required that the judge shall be paid for his reasonable expenses of traveling and attendance while holding court out of his district, in the one case, or in sitting in the circuit court of appeals away from his home in the other case; that the judge shall be paid by the marshal upon his own certificate as to the facts, and that the amount so paid shall be allowed to the marshal in his accounts. We will show that it has been the invariable rule throughout the United States, by every marshal and every other officer of whom I shall now speak, to allow these accounts on such certificates. The account of the marshal in the first instance, under the act of 1875, must be passed upon by the judge in the presence of the district attorney, whose presence shall be noted of record, and the judge shall hear evidence, if need be, and thereupon determine the matter as shall be according to law and justice.

We will show by the certificates which have been put in evidence by the learned managers that in two of the cases where he held court in Tyler the accounts of the marshal were passed upon by the local judge, Judge Bryant, and that every fact that has been adduced in testimony here by the Texas witnesses must have been known to the marshal, to the district attorney, and the judge, who did not feel themselves called upon to disallow the judge's accounts, but on the contrary did allow them; that in that case, as in all cases, the marshal's account then went to the Department of Justice, where it passed under the jurisdiction of its auditor; next to the Treasury Department, where it passed through the jurisdiction of the Auditor of the State and other Departments; next that it went to the Comptroller of the Treasury. It thus passes through six hands, the marshal, the district attorney, the judge, the two auditors, and the Comptroller.

We shall claim, Mr. President, that this evidence is corroborated by certificates which we shall introduce from the Treasury from 1895—I speak of fiscal years now—to 1903 of all the judges of the United States, with the exception of the justices of the Supreme Court of the United States.

We will show by these certificates that a majority of the

judges placed upon the statute the construction put upon it by Judge Swayne, under which he made the certificates which are here charged as criminal acts; and that it thus shows an interpretation in act and fact by a majority of the Federal judiciary impressive in its character, and, as we submit, conclusive upon the construction of the statute; and that the judge in so certifying was treating it, as we have alleged in the answer, as compensation for his reasonable expenses in the nature of a fixed allowance.

We shall at the proper time bring to the attention of the Senate that long line of authority, when we only need, however, to refer to one or two of the cases in which statutes, nothing like as loosely drawn as this one, have been held to justify the officer in making the charge and in holding him free from liability.

We will claim on this article that here was a statute that at the worst was ambiguous, absolutely free from the certainty of construction the learned managers would give it, and that if it be ambiguous there can be by no possibility the evidence of an intent upon the part of the judge in making these open certificates for years to have a fradulent intent or purpose to defraud the Treasury of the United States.

We will show, Mr. President, finally in respect of the articles concerning the use of a car that there is no impeachable offense. We have had no testimony submitted with respect to the article which charges the use of a car to California and return further than the statement of a railroad conductor that the judge said he had gone on that car to California, nothing about the conditions or circumstances of it. That probably stands upon the answer of the respondent. But we will show in our evidence that there was no compensation susceptible of being charged for the use of the car, and therefore that that allegation of the article has not been sustained.

We will further show that no accounts as covering the use of this car ever came before Judge Swayne; that as a fact Judge Swayne's district was curtailed in the month of July of 1894; that the use of the California car is charged in June and July of 1893; that the use of the car from Guyencourt, Del., to Jacksonville is charged in November of 1893; and that as a fact the jurisdiction of the receivership of the Jacksonville, Tampa and Key West Railroad Company passed into the hands of the judge of the southern district of Florida and the United States district court for the southern district of Florida, and so that Judge Swayne passed from having jurisdiction or control in it until after the time when the receivership was closed and the accounts were presented to the court.

The case that was made by the learned manager as being a case of gifts within the language of Scripture we do not conceive is one that we are called upon in a court to meet, for the reason that it is not charged in the articles that Judge Swayne took these rides or used these cars as a bribe; and therefore the imputation that he was receiving gifts with a corrupt intent is entirely outside of the limits of the case as made by the articles, and one that was unworthy of the managers to bring here.

I think, Mr. President, that that concludes my statement of what the counsel for the respondent hope to establish by witnesses in this cause.

The PRESIDING OFFICER. The witnesses for the respondent will be called.

Mr. THURSTON. Mr. President, I will call W. A. Blount.

William A. Blount recalled.

By Mr. THURSTON:

Question. You were sworn and testified as a witness for the managers, Mr. Blount?

Answer. Yes.

Q. You are a practicing attorney in Florida?

A. Yes.

Q. A member of the bar of the United States circuit and district courts?

A. Yes.

Q. Also of the State courts?

A. Yes.

Q. How long have you practiced law?

A. Thirty-one years last November.

Q. What has been the nature and character of your practice, especially in the circuit and district courts of the United States?

A. It has been in general practice, embracing all classes of practice, more especially, I should say, corporation practice.

Q. Is it or is it not a fact that you are generally, as an attorney, interested in a very large proportion of the legal business coming before the courts of the United States in your part of the country?

A. That has been my observation, comparing my practice with the practice of the other attorneys at the bar.

Q. What public positions have you held?

Florida McGuire *v.* certain defendants who have been named

A. I have been a member of the constitutional convention of Florida, city attorney of Pensacola for ten years, now State senator.

Q. You were an attorney for the defendants in the case of in this examination?

A. I was attorney and one of the defendants.

Q. Will you give us in a very brief and concise way the history of that litigation leading up to the time when the matter of the Belden and Davis contempt case came on?

A. It is impossible for me to give it in a brief and concise way. The litigation had been pending in various forms between the claimants to the property in controversy for more than thirty years.

Mr. Manager DE ARMOND. The witness has been asked about the general history of the litigation in the Florida McGuire case and has stated that he could not give it briefly. We think that it is an immaterial thing and object to his giving it at all.

The PRESIDING OFFICER. What is the purpose?

Mr. THURSTON. Mr. President, we agree perfectly with the managers and we thought so during all the time in which they occupied the attention of this court in digging up and retailing seriatim the history of this litigation and all the suits that preceded it.

The PRESIDING OFFICER. The Presiding Officer inquires what is the purpose of asking the witness to give a history of this litigation? How does it bear on the case?

Mr. THURSTON. One reason, Mr. President, is that they undertook to prove, little as it had any relevancy to this case, that the parties defendant in the Florida McGuire case had been put in possession of the land involved in that suit under an injunction in equity brought in a previous proceeding.

That was a part of the history of the case, and if it was important to show that it is important for us to show to the contrary, and that is one of the things we wish to do.

If in the opinion of the court any of the testimony which they introduced covering the history of this case is relevant to this issue then we wish to meet it. Otherwise we do not, because we did not believe when they put it in and we do not believe now that it has any more reference to this case than the dictionary of the United States.

Mr. Manager DE ARMOND. Mr. President, I only wish to call the attention of the court and of counsel to the fact that the history of this case was gone into on the cross-examination of General Belden by the counsel for the respondent, and that what we asked about it was responsive to what he had drawn out. He asked for an explanation of matters that he had called upon the witness to testify about. We asked nothing in the direct examination concerning this history.

Mr. THURSTON. Only, Mr. President, to test the knowledge of the witness as to the suit. As I said before, we do not deem this testimony relevant; we did not the other.

The PRESIDING OFFICER. The Presiding Officer understands that the witness is asked by counsel for the respondent to give in as brief and as concise a form as he can the history, the whole history, of the Florida McGuire litigation. The Presiding Officer submits the question to the Senate whether that is proper evidence in behalf of the respondent. Senators who would admit the testimony will say "aye;" opposed will say "no." [Putting the question.] In the opinion of the Chair the noes have it. The noes have it.

Mr. THURSTON. It is very gratifying that the Senate agrees with our view of the case.

Mr. Manager PALMER. We will gratify you right along, then.

Q. (By Mr. THURSTON.) Was one Edgar, who claimed title to block 91 that has been spoken of, a defendant in the Florida McGuire case?

A. His name was embraced in the parties defendant cited in the præcipe, but he was never served and never a defendant in the case.

Q. Were you in court on the 5th day of November, 1901, at Pensacola, Fla., when Judge Swayne made a statement from the bench as to the fact that he had received a letter asking him to recuse himself from the trial of the Florida McGuire case? And if so, please state what happened on that occasion.

A. I was in court at the time that he stated he had the letter.

Q. Was that in open court?

A. That was in open court.

Q. Was the announcement made from the bench?

A. The announcement was made from the bench.

Q. Now, go on.

A. Judge Swayne stated that before coming to court he had received a letter from the counsel in the Florida McGuire case;

that that letter had asked him to recuse himself because of an interest which had been acquired by him or his wife in certain property in litigation in that case. He stated that he for a relative, or his wife, had negotiated through Thomas C. Watson & Co. for the purchase of a block in the tract known as the Rivas tract, or the Chevaux tract, which was the property in controversy; that a deed had been procured by Thomas C. Watson & Co. in pursuance of that negotiation; but that when the deed was produced it was found to be a quitclaim deed and it had been returned at his direction; that he had never had any interest in the tract of land; no member of his family or relative had ever had any, and he had never been in possession or had any connection with the land, except as I have stated.

Q. Was that statement made in such a manner that it was audible and distinct to the occupants of the court room at that time?

A. Very clearly.

Q. How fully was the bar attended at that time?

A. I can not say. I think that was upon the second day of the term and not upon the opening day. Upon the first day of the term the bar attends with considerable fullness; but I can not say, as a matter of recollection, how many people were there at that time.

Q. Were there also citizens of Pensacola and visitors in attendance?

A. I can not say that as a matter of recollection. It will be simply surmise upon my part from the general attendance on the court.

Q. From your recollection can you state as to whether or not any of the attorneys for Florida McGuire were present when that statement was made by Judge Swayne from the bench?

A. Yes; Judge Paquet was present, and I think that Mr. Belden was present. He has said that he was not, and was in New Orleans, and he knows better than I do on the subject, but I still am of the impression that he was present at the time.

Q. Do you remember as to Mr. Davis?

A. Mr. Davis? I do not.

Q. Incidentally, I call your attention away to another matter. The Judge, you say, spoke of a letter he had received asking him to recuse himself. Have you ever seen that letter?

A. I never have.

Q. Do you know what became of it?

A. Yes; Judge Paquet asked that it might be withdrawn from his hands.

Q. From the court?

A. From the Judge's hands; and it was handed over to Judge Paquet.

Q. Was that request made and the letter turned over in open court?

A. Yes.

Q. And on that same occasion?

A. Yes. Immediately after the Judge had said that the letter was not a formal request for recusation, but that he would recognize it as such and would refuse to recuse himself, the request was made by Judge Paquet and complied with.

Q. Was the case of Florida McGuire at that time on the trial docket of the court?

A. Yes. My recollection is that it had been named for trial by both sides to the litigation.

Q. During the first week of the court what steps did you take, if anything, to inform yourself as to the probability of the case being tried and as to when it might be reached upon the docket?

Mr. Manager DE ARMOND. We think it is an immaterial matter what steps he took to ascertain when the case would be for trial and what he did about it. He is not a party to the record nor a party to the proceeding that we are trying.

Mr. THURSTON. Mr. President, we propose to show that the defendants in that case prepared themselves for trial, got out their list of witnesses, were ready for trial when the case was reached, and that they had a right to demand from the judge that he should not grant any postponement of that trial unless upon legal cause shown.

Mr. Manager DE ARMOND. I suggest in regard to that matter that the persons upon the other side are the persons whose conduct should be inquired about. What the defendants in that Florida McGuire case did or what they thought certainly are not matters for which the attorneys upon the other side could be held responsible. It is not inquiring anything about the attorneys of Florida McGuire—the parties who are proceeded against for contempt—but it is inquiring about what the attorneys upon the other side did, and what the attorneys upon the other side thought, and why the attorneys upon the other side did or thought certain things.

The PRESIDING OFFICER. Does the Presiding Officer understand that that was stated in the trial of that case?

Mr. THURSTON. Yes, Mr. President. I also propose to show it for another purpose. It is part of the res gestæ of this proceeding that has been gone into in detail and in such a manner that we might have objected at every step, but which, in deference to the desire of this court to proceed as rapidly as possible, we did not take advantage of.

The PRESIDING OFFICER. The Presiding Officer thinks the question may be asked.

Mr. THURSTON (to the Reporter). Please read the question.

The Reporter read as follows:

Q. During the first week of the court, what steps did you take, if anything, to inform yourself as to the probability of the case being tried and as to when it might be reached upon the docket?

A. Under the practice adopted by Judge Swayne the first week of court is the week for the trial of criminal cases. He announced upon the opening of that term of court, as usual, that upon the completion of the trial of the criminal docket the civil docket would be called and cases taken up. In consequence of that announcement I went down every morning at the opening of court to see the district attorney in order to ascertain what would be the probable duration of the criminal business, so that I might be ready at the conclusion of that to take up the Florida McGuire case.

Q. What steps did you take, if any, to subpœna your witnesses?

A. I had a witness——

The PRESIDING OFFICER. The Presiding Officer thought that question was asked for the purpose of showing what steps were taken by the plaintiff.

Mr. Manager PALMER. Oh, no. That was the objection, sir, that steps were taken by the defendant.

Mr. THURSTON. By this witness.

The WITNESS. What was the question?

Mr. THURSTON. What steps did you take to secure subpœnas for your witnesses?

A. I had a witness resident in Tallahassee, the surveyor-general of the United States for the State of Florida, who had in his possession the original Spanish archives that would have been used in the suit. I wrote to him to hold himself in readiness to attend upon telegraphic summons—that is not my own knowledge, however—and on Saturday, when I found that the criminal docket was about closed and that the civil docket would be called that afternoon, I telegraphed him to come and bring the documents with him, and I took out subpœnas for my witnesses, returnable on Monday morning.

Q. During that week did you have any conferences from time to time with the attorneys for Florida McGuire, or either of them, with reference to the prospect of your case coming on for trial?

A. I had conferences every day or so with Judge Paquet, in which we discussed the question as to when the trial would probably be had in this case as dependent upon the cessation of the criminal docket, and he said that he was ready for trial. I announced also to him that I was ready for trial.

Q. At those conversations was there anybody else present and apparently acting as associate counsel for Judge Paquet?

A. I can not answer that as to all of them, but in many of them Mr. E. T. Davis was present and participated in the conversation.

Q. Did you understand at those times that he was acting as an associate counsel for Judge Paquet?

Mr. Manager DE ARMOND. I object to that, Mr. President. The witness can tell what he knows, but we object to his telling what he understands or infers or guesses.

Mr. Manager OLMSTED. Besides, it is leading.

The PRESIDING OFFICER. The question can be put in another form—Was Davis one of counsel for the plaintiff at that time?

Q. (By Mr. THURSTON.) Did Mr. Davis, at these interviews in connection with Judge Paquet, engage with you in discussions as to the probability of the case coming on for trial?

A. He did.

Q. And is it, or is it not, a fact that he was apparently acting as an associate counsel in the case?

A. Yes.

Q. Was he in court on Saturday at about the time the criminal docket was closed?

A. He was.

Q. With whom?

A. With Judge Paquet and Mr. Simeon Belden.

Q. What took place, Mr. Blount, when the criminal docket was closed, with reference to the Florida McGuire case?

A. The judge announced that the criminal business was over and he would call the civil docket. My recollection is, though

I may be mistaken in that, that the only case on the docket was the Florida McGuire case. At any rate, that case was called. Judge Paquet stated that he was not ready for trial.

Q. Now, right there, before going on, was there any suggestion made by Judge Swayne at that time that he proposed to call that case for trial before the following Monday morning?

A. None.

Q. Now, if you will, kindly go on with your statement.

A. Judge Paquet stated that he was not ready for trial. I insisted that, as I had telegraphed a witness who was then probably on his way, as my witnesses had been subpœnaed, and as we were thoroughly familiar with the issues of that case, having tried other cases embracing the same issues, there was no reason why the case should be postponed. Judge Paquet did not ask for a continuance, but he asked for a postponement until the following Monday. I strenuously resisted that. Judge Swayne stated that the custom of his court was to set cases in the future if the counsel agreed to it; but if the counsel did not agree to it, he would not postpone the case against the objection of one of them, and, therefore, he would call the case on Monday morning, when it would be tried unless the counsel for the plaintiff made a showing for a continuance.

The PRESIDING OFFICER. A continuance or further postponement?

A. For a continuance. The law of Florida requires that when a case is called on the docket it must be tried, continued, or dismissed.

Q. (By Mr. THURSTON.) My associate suggests—it slipped my attention—that you said Judge Paquet asked for a postponement until Monday?

A. Until Thursday. I thought I said Thursday.

Q. Until Thursday; I did not notice it. On that same Saturday did Judge Swayne make any further statement from the bench about the matter of block 91 and his alleged interest in it?

A. Not that I heard.

Q. Were you in court at any time during the week in which any further reference was made to that by Judge Swayne from the bench?

A. No, except on the day when the letter was presented and he refused to recuse himself.

Q. On that Saturday afternoon while you were considering the question of the forthcoming trial of the Florida McGuire case, in all that was said, was anything said by Judge Swayne about his purpose or intention of leaving town?

A. Not that I heard.

Q. Were you there at the time?

A. I was there all the time and listening intently, because I was interested in having the case tried.

Q. And you heard no statement of that kind?

A. None whatever.

Q. Were the attorneys for Florida McGuire ordered or directed by Judge Swayne to proceed to trial in that case on Saturday?

A. They were not. There was no suggestion of that kind by anybody.

Q. I assume, Mr. Blount, that some time prior to the following Monday morning you became cognizant of the bringing of a suit in the circuit court of Escambia County against Judge Swayne and the publication of a newspaper article?

A. Yes. I can not say that between that time and Monday morning I became cognizant of the publication of the newspaper article. My recollection is that I became cognizant of that on Monday morning, but I became acquainted with the fact that Judge Swayne had been sued by Florida McGuire in the State court for Escambia County.

Q. On the opening of the court on Monday morning, November 11, what took place in the case of Florida McGuire?

A. Immediately after the opening of the court Judge Swayne called the case, and Mr. E. T. Davis arose and asked that his name be marked upon the docket as an attorney in the case, and asked leave to file a motion for a discontinuance of the case.

Q. What happened then?

A. The Judge granted the motion, and then—do you desire me to proceed further?

Q. Before I ask about the contempt proceedings I will ask you did Mr. Davis thereafter appear in any further resulting proceedings in connection with that same case of Florida McGuire in the litigation?

A. Do you mean after——

Q. After the dismissal—calling your attention to the matter of taxation of costs?

A. I do not recollect distinctly. My impression is that there was a dispute between him and me as to the costs to be taxed in that case and that he represented Florida McGuire in that taxation. That relates to the case that was discontinued.

Q. Now, going back for a moment to the Saturday afternoon when the discussion came up as to whether or not the Florida McGuire case should go on on Monday or be postponed, what part did Mr. Davis take, in connection with Mr. Paquet and Judge Belden, in connection with that?

A. Mr. Davis was sitting by Judge Paquet, and when Judge Paquet stopped every now and then he would turn to Mr. Davis and converse with him, and then make an additional statement of reasons why the case should not be tried on Monday. I did not hear what occurred between them.

Q. Is it, or is it not, a fact that, so far as appearance went, Judge Paquet and Mr. Davis were acting conjointly at that time as attorneys in the Florida McGuire case?

Mr. Manager DE ARMOND. I object to his judgment of appearances.

Mr. Manager PALMER. He has got a right to tell what happened; that is all.

Mr. Manager DE ARMOND. It is enough, I think, for the witness to state the facts.

Mr. THURSTON. Mr. President, I concede the objection is well taken, and it might have been interposed to a hundred questions that were asked on the other side.

Mr. Manager CLAYTON. Why did you not interpose them?

Mr. THURSTON. Well, because we had hoped all the way along that the managers would reform their method of examination.

Mr. Manager CLAYTON. You are following our bad example.

Q. (By Mr. THURSTON.) Mr. Blount, what happened in court on Monday morning, November 11, as to the contempt proceedings?

A. After the case had been dismissed, I rose and suggested to Judge Swayne that by reason of facts that occurred prior thereto—some of which I have stated, and some of which I have not stated—in my opinion, a contempt had been committed of the court, and suggested to the court orally that an investigation should be instituted by him for the purpose of determining whether such contempt had or had not been committed. Thereupon Judge Swayne reviewed the facts as they had come to him and directed that Mr. Davis, Mr. Belden, and Mr. Paquet should appear upon the following day to answer to the suggestion that I had made. The court, then, as I recollect, adjourned.

It was suggested to me by Mr. Fisher, I think, possibly by Judge Swayne—I can not recollect as to that—that it would be more formal if the suggestion was put in writing. I objected because I said that I was simply bringing the matter to the attention of the court and had no further function to perform; but, in obedience to the suggestion, I made a written motion as an amicus curiæ that they be cited to appear before the court. That motion, I believe, is in the record.

Q. Without going over it again, that motion resulted in a rule to show cause returnable on Tuesday morning?

A. I presume so. I do not know that I ever saw the rule until I saw it in the proceedings of the subcommittee, I believe, of the House.

Q. On the return of that rule Tuesday morning what one of the persons named in it appeared in court?

A. Mr. Davis and Mr. Belden both appeared in court.

Q. Mr. Paquet did not?

A. He did not.

Q. You understood, of course, I presume, that he had left the city at that time?

A. It was so stated.

Q. Now, what took place with reference to the trial of that contempt proceeding?

A. Do you desire that I should go on consecutively and chronologically state what took place?

Q. Consecutively and in your own way state the facts.

A. The first thing that was done was that Mr. Davis and Mr. Belden filed what purported to be an answer to the specification contained in the motion that I had made. Judge Swayne asked if they were ready to proceed with the trial upon that answer. They said that they were. Thereupon witnesses were put upon the stand who had been subpœnaed upon behalf of the court. Mr. B. H. Burton, the deputy clerk of the Escambia County circuit court; Mr. John Denham, the proprietor and editor of the Pensacola Press; Mr. E. B. Barker, the city editor of the same paper, and Mr. Joseph C. Keyser—those, as I recollect, were the witnesses before the court. After those witnesses had been examined, Mr. E. T. Davis asked that Mr. William Fisher and I should be put upon the stand in behalf of the respondents, and that was done. After the testimony was closed——

Q. Did Davis or Belden examine yourself and the other witnesses they had asked to be called?

A. Yes; they did. They asked us two questions, I think. They asked me two questions, at any rate, and Mr. Fisher, I

think, one; the two questions being as to whether I was attorney for the defendants and whether I was one of the defendants; and Mr. Fisher was asked, as I recollect, whether he was one of the defendants.

Q. Did the testimony thereupon close?

A. Yes.

Q. Did the respondents, either Davis or Belden, ask to call any other witnesses?

A. They did not.

Q. Or ask for any delay?

A. They did not.

Q. Or ask an opportunity to present anything that was not already presented?

A. They did not.

Q. Did they argue the case?

A. Judge Belden said nothing. Mr. Davis produced a copy of the American and English Encyclopedia of Law, and cited something from it upon the subject of the jurisdiction of the United States courts in cases of contempt. There was no other argument.

Q. Was there any limitation put by the judge of the court upon the argument?

A. None.

Q. Were either of the respondents deprived by any rule or action of the court of an opportunity either to testify in their own behalf, to call witnesses, to secure process, to file pleas, to make argument, or to secure any other right they might ask for?

A. They were not.

Q. While that hearing was on, did you see a paper which purported to be a manuscript copy of the article which appeared in the Pensacola paper on Sunday morning, the 10th?

A. I did see such a paper.

Q. (Handing paper to witness.) Is that the paper?

A. (Examining paper.) I can not say. It looks like it.

Q. It appears to be it?

A. Yes.

The PRESIDING OFFICER. Is that one of the papers identified yesterday?

Mr. THURSTON. It is one of the papers identified. [To the witness.] What did you do with that paper, if anything, so far as Mr. Davis or Mr. Belden were concerned?

A. My recollection is that that paper was produced by Mr. E. B. Barker, the city editor of the Press, who said that it had been brought to him on Saturday night at about 11 o'clock by Mr. George W. Pryor, with the request that it should be published on the following morning.

Q. That was a part of his sworn testimony?

A. A part of his sworn testimony. Upon looking at the paper I handed it to Mr. Davis. He asked to see it and he said that he had nothing to do with the writing of that paper, but that he thought it was Judge Paquet's handwriting.

Q. Was that paper handed to the Judge?

A. Judge Swayne?

Q. Yes.

A. I do not recollect.

Q. Did Judge Swayne hand that paper to Mr. Davis or to Mr. Belden and ask them concerning it?

A. I think not.

Q. Did Judge Swayne on that hearing ask Mr. Davis any question at all?

A. Not that I remember, and I do not think that he did.

Q. Did he ask Judge Belden anything at all?

A. I think not. Judge Belden sat by at the end of the table, away from the court and away from the other counsel, and really took no part in the proceedings at all.

Q. What did Judge Belden's physical appearance seem to be at that time?

A. It was about his usual appearance, except that upon one side of his face there appeared to be a distortion—that is, a drawing up of the side of the face.

Mr. THURSTON. I will not offer this manuscript in evidence at the present time, but will do so when I have further identified it by another witness.

Mr. Manager DE ARMOND. What is that—the newspaper article?

Mr. THURSTON. It is the manuscript of the newspaper article.

Mr. Manager PALMER. We may object to it when it comes along.

Q. (By Mr. THURSTON.) The suit of Florida McGuire having been dismissed, as has been testified to here, was recommenced in that same court, was it not?

A. Yes, sir.

Q. Substantially the same case and the same parties?

A. Yes.

Q. Brought on later for trial?

A. Yes.

Q. (Handing a paper to witness.) Let me call your attention to this præcipe for witnesses on behalf of the plaintiff Florida McGuire, in that later case, and to ask you to glance it over and tell me as to whether or not those witnesses, or the most of them, were witnesses on that trial.

A. (After examining paper.) Yes.

Q. On that trial were there any witnesses called by Florida McGuire or her counsel or examined on her side who did not live in Pensacola, either upon or in the immediate vicinity of the Rivas tract?

A. So far as I know, not. I have to answer that this way: That a good many of these witnesses are known to me only in a general way, and I know generally where they reside. I do not know them personally, but I think that they all reside within a mile of the court-house in Pensacola.

Q. How long, in your judgment, would it have taken the United States marshal to have subpœnaed them all as witnesses?

A. If they had all been at home at the time they could have been subpœnaed in an hour and a half or two hours.

Mr. THURSTON. We offer this original præcipe for witnesses in that case. It is the original document which was identified the other day, and we ask, for the purpose of making up the record, that the certified copy may go in instead.

Mr. Manager DE ARMOND. We ask what is the object of offering this paper? What is it for? What do counsel expect to prove by it?

Mr. THURSTON. The object is to disprove the testimony of Judge Belden, who was very clearly brought to state that the only reason they decided to discontinue the Florida McGuire case was that they needed forty or fifty witnesses, many of them living at a distance, and that they could not possibly secure them from the time of Saturday afternoon, when court adjourned, to Monday morning, when the case was to be called.

Mr. Manager DE ARMOND. This document——

Mr. THURSTON. Wait; I am not yet through.

Mr. Manager DE ARMOND. Excuse me.

Mr. THURSTON. I have now shown that upon the reincarnation of the Florida McGuire case the same case between the same parties was tried out in full in the same court, and that on that trial they only asked on behalf of Florida McGuire for twelve witnesses by subpœna, and that they all lived, and that all the witnesses they produced lived, right there. It is in line with our insistence that here was a conspiracy against the dignity and the honor of the court by its officers; and that it is a mere subterfuge in their testimony to claim that they discontinued that case because they had a multitude of witnesses who could not be obtained, when the fact was, as we propose to show and insist, that their discontinuance of that case resulted solely and alone because they were held and taken to task for their conspiracy and for their contempt.

Mr. Manager DE ARMOND. Mr. President, the statement of the witness, Belden, was that they had forty or fifty witnesses for the trial, which was expected to take place in November, and that it would be impossible to get them for Monday, with notification upon the Saturday preceding.

This, now, is a paper which purports to be a list of some of the witnesses called for and used upon a trial which took place some time the next year in the suit brought over again—in another suit. It does not at all follow from the fact that this paper contains a list of twelve names that they did not have forty or fifty witnesses for the trial before, nor does it follow that the names of all the witnesses are contained upon the paper, or that they did not need or did not use any other witnesses upon the second trial. So it is an immaterial sort of paper, we think.

The PRESIDING OFFICER. The Presiding Officer thinks the paper bears on the question, although it is not conclusive.

Mr. THURSTON. You have no objection, I suppose, to our retaining the original document, to be returned?

Mr. Manager PALMER and Mr. Manager DE ARMOND. No.

The paper referred to is as follows:

In the circuit court of the United States for northern district of Florida. Florida McGuire and Matilda Caro *v.* W. A. Blount et al.

To F. W. MARSH, *Clerk:*

You will please issue summons for the following-named witnesses for plaintiff:

Alex Robinson, R. R. street, west side, between Government and Intd.
Chas. Ahrons, next door to Mrs. Lenar, E. Romana.
Water J. Richer, East Intendentia, near C. & L. store.
W. H. Hutchinson, East Gregory, block 2.
Dr. G. A. Brosnaham, cor. 5 & 14th st., East Hill.
Mrs. Alphonse Villoneuve, east A. V. Caro.
Thos. Powell, between Chase & Gregory, on 9th ave.
Frank Tuart, East Intendentia, S. Florida Blanca.

Carolin Lennox, near A. V. Caro, Rivas tract.
Fela Roch.
Vice Beck, near A. V. Caro, Rivas tract.
Sewell C. Cobb.

SIMEON BELDEN and E. T. DAVIS,
Attorneys for Plaintiffs.

(Indorsed: Florida McGuire *v.* W. A. Blount et al. Præcipe for witnesses. Filed March 14, 1902. F. W. Marsh, Clerk.)

UNITED STATES OF AMERICA,
Northern District of Florida.

I, F. W. Marsh, clerk of the circuit court of the United States for the northern district of Florida, hereby certify that the foregoing is a true and correct copy of an original document and paper filed in the said suit in said court, as the same remains on file and of record in said court.

Witness my hand and the seal of said court at the city of Pensacola, in said district, this 31st day of January, A. D. 1905.

[SEAL.] F. W. MARSH, *Clerk.*

Mr. MORGAN. I ask that the statement of the witness in respect to his knowledge of the residence of the witnesses in that case be read.

The PRESIDING OFFICER. The Reporter who took the notes has retired to his room. He will be here in a moment.

Mr. THURSTON. Shall I go on in the meantime, before the request of the Senator from Alabama is complied with?

The PRESIDING OFFICER. Does the Senator from Alabama wish the proceedings to stop until the Reporter's notes are returned to the Senate?

Mr. MORGAN. I do not care to stop the proceedings until he comes in.

Q. (By Mr. THURSTON.) That proceeding for contempt was against three persons as associate counsel in the same case, to wit, Paquet, Belden, and Davis, was it not?

A. Yes.

Q. The proceeding as to Belden and Davis came to an end, as I understand you, when they were adjudged guilty and sentenced on the 13th day of November, 1901?

A. The 12th day, I think.

The PRESIDING OFFICER. The Reporter's notes are now here and the Reporter will read the answer of the witness in reference to the residence of the witnesses in the second suit.

The Reporter read as follows:

Q. On that trial were there any witnesses called by Florida McGuire or her counsel, or examined on her side who did not live in Pensacola, either upon or in the immediate vicinity of the Rivas tract?

A. So far as I know, not. I have to answer that this way: That a good many of these witnesses are known to me only in a general way and I know generally where they reside. I do not know them personally, but I think that they all reside within a mile of the courthouse in Pensacola.

Q. (By Mr. THURSTON.) On the conclusion of the trial of Davis and Belden what sentence was pronounced?

A. Judge Swayne first pronounced a sentence condemning them to imprisonment for ten days, the payment of a fine of $100, and disbarment from the practice of the law in his court for two years.

Q. What happened thereafter as to the change in the sentence?

A. I suggested to the Judge that I thought it was beyond his power to disbar them in connection with the other punishments that he had imposed, and he thereupon modified the sentence by eliminating the disbarment feature.

Q. Was any suggestion made to him at that time by Davis and Belden or by anyone else that his power to punish was limited to either fine or imprisonment and could not extend to both?

A. There was not.

Q. Was that question raised at all?

A. It was not.

Q. Did you at that time, from your recollection of the statute, know that he was imposing a sentence——

Mr. Manager PALMER. We object to that.

Mr. THURSTON. We do not care to ask it except we do not want the managers to have the opportunity of insisting that it was the duty of the witness to call the attention of the court to the law as he knew it, and that he did not do it, being the prosecutor.

Mr. Manager DE ARMOND. We are not going to insist much about the discharge of duty by this witness in connection with that matter.

Mr. THURSTON. No; but this witness discharged his duty in that matter. [To the witness.] What afterwards followed, in a legal way, the sentence of Davis and Belden?

A. They sued out a writ of habeas corpus before Judge Pardee.

Mr. Manager DE ARMOND. It seems to me that is taking up time on matters that are shown otherwise. The counsel is asking the witness what happened; he is going into the matter of the habeas corpus. The record shows all that.

The PRESIDING OFFICER. Evidence has been given in that respect on behalf of the managers. If there is any desire to contradict any of that testimony, the witness may be asked questions for that object. Otherwise it is scarcely desirable to go over it.

Mr. THURSTON. Mr. President, we are keenly alive to the awakened interest of the managers in the time that is being consumed in this trial; and we assure them and assure the Senate that we will endeavor to put our testimony in with the utmost rapidity and brevity.

Mr. Manager PALMER. And we will endeavor to see that you do not get in any that is not testimony.

Mr. THURSTON. I have no doubt that the board of managers will constitute a constant interrogation point as to the admissibility of evidence.

Mr. Manager PALMER. Yes, sir; whenever you try to put in anything that is not evidence.

Mr. THURSTON. It is a little singular that the board of managers should take that position at this late hour of the trial.

The PRESIDING OFFICER. This colloquy between managers and counsel does not throw very much light on the case.

Mr. THURSTON. No. I will withdraw my other question. [To the witness.] What followed in the further prosecution of this same contempt charge, if anything?

The WITNESS. You mean in the legal proceedings?

Mr. THURSTON. Legal proceedings.

The WITNESS. After the habeas corpus?

Q. Of the original contempt charge. I ask you now directly as to the other defendant in it, Mr. Paquet.

Mr. Manager DE ARMOND. As to that, we object. What happened to Paquet or did not has nothing to do with this case.

The PRESIDING OFFICER. The Presiding Officer supposes that the object is to prove that Judge Paquet came in and purged himself.

Mr. THURSTON. That is the proposition.

The PRESIDING OFFICER. The Presiding Officer thinks the question may be asked.

Mr. THURSTON (to the Reporter). Read the question.

The Reporter read as follows:

Q. Of the original contempt charge. I ask you now directly as to the other defendant in it, Mr. Paquet.

A. Judge Paquet first appeared in answer to the citation with counsel, and objected to the proceeding upon the ground that Judge Swayne did not have jurisdiction, as the transaction in which counsel were engaged was not an official transaction of an officer of the court. Judge Swayne overruled that contention, and Judge Paquet asked for time in which to make an answer. Thereupon he sued out a writ of prohibition from the circuit court of appeals, which was heard before that court and denied, and then he appeared in the circuit court before Judge Swayne and filed a paper, which was an apology and a purging of the contempt, as I understood, though the paper speaks for itself.

Q. (By Mr. THURSTON.) What followed that?

A. Thereupon he was discharged without punishment.

Mr. THURSTON. We offer in evidence a certified transcript of that portion of the record in the case, merely asking to have read the paper in which Judge Paquet confessed and purged himself of contempt.

Mr. Manager PALMER. Where did that come from?

Mr. THURSTON. That came out of the minority report of the committee in the House.

Mr. Manager PALMER. It never has been offered in evidence, and we object to it.

Mr. HIGGINS. It is offered in evidence now.

Mr. Manager PALMER. We object to that paper. It has never appeared in evidence in this case. The original has never been seen, and whether any such paper exists we do not know. We object to this extract from the minority report, because it was never in the case.

Mr. THURSTON. This is certified to by the clerk of the court as being a part of the record, and I think, if you will permit me, I have in my pocket the stipulation with the managers that certified copies of records may be produced and used in evidence in the same manner that the original documents could be.

Mr. Manager PALMER. Yes. This purports to be a certified copy of a paper which is contained in the minority report of the Judiciary Committee.

Mr. THURSTON. Oh, no.

Mr. Manager PALMER. The first place where that paper ever appeared is in the minority report. It has never been seen by anybody except perhaps the people who made the minority report. I say it was never offered in evidence in any place. I should like to see the original, if you have it.

Mr. THURSTON. It is on file in the court. The clerk certifies under the seal of the court that—

The foregoing is a true and correct copy of an original paper or document filed in the cause therein specified in said court on the day therein set forth, as the same remains of record and on file in said court.

To remove any difficulty——

The PRESIDING OFFICER. The Presiding Officer thinks an official copy of the proceedings in court is proper evidence; and as to the other question, whether this is evidence or not, three parties were proceeded against for contempt. It was one proceeding. The action of the court with regard to two of them has been introduced in evidence, and the Presiding Officer thinks that the action of the court in regard to the third of the persons complained of for contempt can properly be admitted.

Mr. THURSTON. I will ask the Secretary to read all but the certificate of the clerk.

Mr. CULBERSON. I desire to inquire through the Chair if this paper is not a copy of the certificate of the clerk and not the certificate of the clerk itself?

The PRESIDING OFFICER. The Presiding Officer understood that it was an official copy of the court's proceedings, attested by the clerk.

Mr. THURSTON. It is under the hand of the clerk and the seal of the court. It is the original certificate.

The PRESIDING OFFICER. What the Secretary is now about to read and which will go into the record is an official copy of the proceedings of the court.

Mr. THURSTON. Yes. Perhaps before that goes in and to avoid any further question over these matters, as they may arise hereafter——

Mr. Manager PALMER. I am not objecting to this paper on account of its being a certified copy. The objection I made was that the original paper first appeared, if it appeared at all, in the minority report. The original paper never has been seen. If this clerk wants to certify that this paper which appears in the minority report is a part of his record I am not going to object. That is what he is certifying. He is certifying that the minority report is an original record of his court. Perhaps the minority report was made from the original record. I do not know. I have never seen the original of this document. It has never been introduced in evidence.

Mr. THURSTON. The clerk has pasted onto this paper a printed copy of the original paper in his court, and he certifies that it is a true copy. He certifies it under the hand of the clerk and the seal of the court. The original paper is there on file now, as certified to.

Mr. Manager PALMER. Well, I doubt it.

Mr. SPOONER. Mr. President, may I submit a question to the witness at the present time?

The PRESIDING OFFICER. The Senator from Wisconsin asks to submit a question to the witness at this time. If there is no objection, the question will be read.

The Secretary read as follows:

Q. What action was taken by the court on the rule against L. P. Paquet for contempt after the filing of his answer on March 31, 1902?

A. I do not recognize the date. If that was the final answer, the action taken by the court was to discharge him without punishment.

Mr. McCOMAS. Mr. President, I could not hear the answer.

The WITNESS. I will repeat it as closely as I can. I said that I did not recognize the date as quoted in the inquiry, but that if it refers to the final answer filed by Mr. Paquet the Judge discharged him upon that answer without punishment.

Mr. THURSTON. I have offered——

The PRESIDING OFFICER. The Presiding Officer thinks the paper is admissible.

Mr. THURSTON. I offer the pleading and also the certified copy of the judgment which followed it.

The Secretary read as follows:

United States circuit court, northern district of Florida, at Pensacola—
In the matter of contempt proceedings against Louis P. Paquet.

Now comes Louis P. Paquet, respondent in the above-entitled matter, and says:

That upon full and mature consideration of his actions and conduct in the matter referred to in the motion, made as the basis of the above-entitled proceedings, through excessive zeal in behalf of his clients, he did so act that this honorable court was justified in believing that the said actions were committed in contempt thereof and as showing disrespect therefor. That respondent regrets exceedingly the course taken by him in this matter, and now appears in court and requests that he be permitted to apologize for his behavior and file with the records in the above-entitled cause this paper.

LOUIS P. PAQUET, *Respondent.*

Filed March 31, 1902.

F. W. MARSH, *Clerk.*

In the United States circuit court, northern district of Florida. The United States *v.* Louis P. Paquet.

This cause coming on to be heard, on the application of Louis P. Paquet to withdraw his answer in the above-entitled cause, and the submission of his explanation and apology by the said defendant;

It is now ordered that the said defendant do have leave to withdraw his answer heretofore filed and to subtract the same from the files of this court, and that this court do accept the said apology and statement filed on March 31, 1902, and the said defendant is hereby discharged from the rule to show cause, heretofore granted against him.

Done this April 1, A. D. 1902.

CHAS. SWAYNE, *Judge.*

(Indorsements: United States *v.* Louis P. Paquet. Order. Filed April 2, 1902. F. W. Marsh, clerk.)

UNITED STATES OF AMERICA, *Northern District of Florida.*

I, F. W. Marsh, clerk of the district court of the United States for the northern district of Florida, hereby certify that the foregoing is a true and correct copy of an original paper or document filed in the cause therein specified in said court on the day therein set forth, as the same remains of record and on file in said court.

Witness my hand and the seal of said court at the city of Pensacola, in said district, this 3d day of February, A. D. 1905.

[SEAL.] F. W. MARSH, *Clerk.*

Mr. THURSTON. That is all we care to ask the witness.

Cross-examined by Mr. Manager DE ARMOND:

Q. When do you say your attention was first called to the bringing of the suit against Charles Swayne in the State court?

A. I have not said. I say now it was called to my attention on Sunday, the 10th of November.

Q. When was your attention first called to the newspaper article about which you have testified?

A. My recollection is that my attention was first called to it by Mr. William Fisher on Monday morning, possibly Sunday afternoon.

Q. Who called your attention to the bringing of the suit?

A. Judge Swayne by telephone on Sunday morning.

Q. Did the Judge say anything about the article in the newspaper?

A. I do not recollect whether he did or not. If he did, I did not see the article—I did not take the paper—until the next day.

Q. Did you not testify when you were before the committee that the Judge called your attention to the article and that you would look it up?

A. I do not think so. The testimony will show, however. If you will present it to me, I will tell you whether I said it or not.

Q. What further conversation did you have with Judge Swayne about the matter?

The WITNESS. On that day?

Mr. DE ARMOND. That day or any other day.

A. On that day he asked me if I had known that he had been sued. I told him I had not. My recollection is that he asked me what I thought about it. I said it savored to me of contempt, but that I could not say until I had investigated the facts and circumstances. Then the conversation ceased.

Q. Did you have any talk with him Monday about the matter?

A. Scarcely a talk. I saw Mr. Fisher——

Q. I was asking about Judge Swayne, not Mr. Fisher.

A. I will lead up to it. I saw Mr. Fisher, and he looked up the witnesses in connection with the proceeding——

Q. I prefer that you would answer my question. I asked you whether you had any talk with Judge Swayne on Monday about this matter?

A. I announced to Judge Swayne, in passing into the court room on Monday, that I had seen Mr. Fisher and investigated the circumstances, and that I was going to make a suggestion to the court to have these gentlemen cited for contempt. I was simply laying the predicate for that by saying what I got from Mr. Fisher.

Q. Was that before court was called?

A. Just before court. I passed from his office into the court room.

Q. Then after the dismissal of the cause—you first made a verbal suggestion?

A. Yes.

Q. When did you file the suggestion in writing?

A. It was probably an hour afterwards; I think just after the adjournment of the court.

Q. Just after the adjournment of the court?

A. I think so. I did not file it in writing. I sat down at the desk and wrote it on the motion book.

Q. You were present, you have said, when the testimony was taken in the case?

A. I was.

Q. You have given the names of the witnesses who testified?

A. Yes.

Q. Was not the testimony of the newspaper men confined entirely to the question of this publication?

A. That is my recollection.

Q. Was not the testimony of the deputy clerk confined entirely to the filing of papers and the issuing of process in the suit against Judge Swayne in the State court?

A. Not entirely to the filing. He testified in addition to that that Mr. Joseph C. Keyser, who testified he was an interested party, had come to him with a præcipe after his office had closed, and had got him at his house, and requested that process should be issued that night and served at all hazards before Monday morning.

Q. Mr. Keyser testified also?

A. Mr. Keyser testified; yes.

Q. In regard to the same matter?

A. Yes.

Q. That was all the testimony in the case, except the testimony of yourself and Mr. Fisher, to the effect that you were defendants and attorneys of the defendants?

A. Yes, so far as I recollect, and I think my recollection is accurate.

Q. How soon after the conclusion of Judge Swayne's sentence were these defendants removed from the court room?

A. I do not know. I went out immediately.

Q. Who had the witnesses subpœnaed in the contempt proceedings? You say the witnesses of the court.

A. Either Mr. Fisher or I. I do not remember which.

Q. You do not recollect which?

A. No; we were both acting together in the matter.

Q. Did not Judge Swayne usually leave town right after the adjournment of the court?

A. Yes; he did.

Q. Did he not usually remain away until court assembled again?

A. Yes; he did.

Q. The Florida McGuire case was not set down for any particular day, was it?

A. No; except on the Saturday night it was set down for call on Monday. Previous to that time it had not been set down.

Q. Do you recollect how many witnesses were used in the trial of the Florida McGuire case on the part of the plaintiff?

A. You mean the subsequent trial?

Q. Yes.

A. Sixteen, I think.

Q. Not more than that, you think?

A. I think not. I have that case now before the Supreme Court of the United States, and I know it quite thoroughly. My recollection is that there were sixteen.

Mr. Manager DE ARMOND. I believe that is all.

By Mr. THURSTON:

Q. Just one question. Do you know how long Judge Swayne remained in court after the November term, 1901, in Pensacola?

A. No; I do not. He was there several days, but I have nothing fixed in my memory as to how long he remained.

Q. He was there several days after the term closed, but you can not testify distinctly?

A. No, sir.

Mr. THURSTON. That is all, Mr. President.

Mr. CULBERSON. Mr. President, I wish to propound a question to the witness.

The PRESIDING OFFICER. The Senator from Texas propounds the following question to the witness. It will be read by the Secretary.

The Secretary read as follows:

Q. What was said by Judge Swayne in rendering judgment in the contempt proceedings?

A. That will take some little time to give it. Of course, it has been three or four years, and I can simply give the ideas without his language.

He first took up the answer of Mr. Davis and Mr. Belden and adverted to that part of it which said that the court was without jurisdiction because the suing in the State court was not an act done in the United States court, and therefore it was not an official transaction. He said with reference to that that it made no difference where the suit was brought, that they were officers of the court. It had been shown that they were attorneys in the case of Florida McGuire, which was pending in that court, and that no matter what instrumentality they may have chosen to effect a purpose with respect to the Florida McGuire suit, it was an official transaction in that suit.. He elaborated that, but it is unnecessary for me, I think, to go on further.

Then he took up the question raised by Mr. Davis, separate from Mr. Belden; that Davis was not an attorney of record in the Florida McGuire case, and he said that Mr. Davis had appeared before him during the week and on Saturday night—I mean before him in his presence—and it was apparent that he was connected with that suit; and in view of the evasive character of his answer and in view of the fact that he had not, upon oath or otherwise, denied that he was connected with that suit, it must be assumed to be true that he was an attorney in the Florida McGuire suit.

Then he commented upon the evasive character of the answer, so far as it related to the interest of Judge Swayne in the subject-matter in litigation, and said it stated things which were not correct and which were known to the counsel, Messrs. Davis and Belden, not to be correct, because he had stated to the contrary in the previous week; that they had not denied that the land in controversy was open and in the possession of no one; they had not denied that they knew that fact; and they had sued him for being in possession and sued him for mesne profits when they knew that there had been no mesne profits; and that that fact, taken in connection with the fact that they had known by the same information, which they had on Saturday night for at least a week, and with the further fact that the suit which they then brought could be brought just as effectively thirty or forty days thereafter, and in connection with the further fact that they had done this on Saturday night after he had announced that he would try that case on Monday, was proof conclusive, to his mind, that there could be but one purpose in it, and that was to cause him to recuse himself in order that they might not have to try the case.

He then said that their action was unbecoming the attorneys of any court; that it indicated that they were either ignorant or vicious, and to his mind the action which they had taken showed that it was vicious, and, upon that assumption, that their actions were a stench in the nostrils of the people.

He said that Mr. Belden was an old man and apparently in affliction, and that the passage of sentence upon him was one of the saddest things that he had had to do in his judicial career, but that the sympathy which he held for him could not in any wise deter him from performing the duty which was incumbent upon him as a judge; and he therefore was compelled to place him in the same category with Mr. Davis, who was a younger and hardier man.

That, of course, is a very brief synopsis. The judge took fifteen or twenty minutes in pronouncing the sentence in that way.

Mr. CULBERSON. Mr. President, I have a further question to propound.

The PRESIDING OFFICER. The Senator from Texas asks another question, which will be read by the Secretary.

The Secretary read as follows:

Q. What was the manner of Judge Swayne as to anger or resentment in imposing sentence in the contempt proceedings?

A. That depends entirely upon the view point of the man who was listening to him. I believed that he was right. It seemed to me——

Mr. Manager DE ARMOND. Mr. President, I object to that. It is not an answer to the question. The witness is giving an opinion now, and that was distinctly ruled out before, and he knows it.

The WITNESS. I object, if the court will permit me, to any statement of that kind which the witness will have no opportunity to answer.

Mr. Manager DE ARMOND. There was an objection made distinctly to the witness giving his opinion, and it was ruled to be improper for him to give his opinion. The witness heard it, and he is an intelligent witness. Now, he is not answering the question that was put to him. He was asked as to whether the Judge showed anger or not. He said it depended upon the viewpoint, and then he proceeded to tell what he thought about it, and whether it ought to be regarded as anger by a person feeling and thinking as he thought and felt. I say it is not responsive to the question, and it is contrary to the ruling of the court heretofore.

The PRESIDING OFFICER. The witness may state how he regarded the appearance of the Judge in imposing this sentence.

Mr. CULBERSON. Mr. President, I ask that the question be read again so that the witness can answer the question propounded.

The PRESIDING OFFICER. The Presiding Officer was about to say that he did not think the witness should make any comment in answering any question as to whether he thought the Judge was right or not. The question will be again read.

The Secretary read as follows:

Q. What was the manner of Judge Swayne as to anger or resentment in imposing sentence in the contempt proceedings?

A. I clearly have to give my opinion upon that point. My opinion was that his manner was emphatic, but not unduly severe, considering the fact that he had found the defendants guilty. I can simply say that that was my opinion. Other persons viewing it from another standpoint might have thought otherwise.

Mr. MORGAN. I have a question which I should like to put to the witness.

The PRESIDING OFFICER. The Senator from Alabama propounds the following question.

The Secretary read as follows:

Q. When the Florida McGuire case was pending in the United States court, and at the time of its discontinuance, did you claim title to or the right of possession in any land included in that suit?

A. Oh, yes; I was one of the defendants, and quite largely interested in the suit, and was an attorney.

Mr. McLAURIN. I desire to propound a question.

The PRESIDING OFFICER. The Senator from Mississippi propounds a question in writing, which will be read.

The Secretary read as follows:

Q. How long after the convening of court on Monday morning until you made the motion for a rule for contempt?

A. Probably ten minutes after Mr. Davis had asked that his name be docketed and had made a motion for a discontinuance.

Mr. CULBERSON. Mr. President, one other question.

Mr. McLAURIN. The answer to the question I propounded I do not think fully answers the question. I should like to have it put again.

The PRESIDING OFFICER. The last question will be read again.

The Secretary read as follows:

Q. How long after the convening of court on Monday morning until you made the motion for a rule for contempt?

A. I answered that; about ten minutes.

The PRESIDING OFFICER. The question propounded by the Senator from Texas [Mr. CULBERSON] will be read.

The Secretary read as follows:

Q. Did the judge reside in Pensacola, Fla., or in his district prior to 1900?

A. That would require me to answer as to what residence is, and I am not prepared to do that. It is a legal question which involves a great many considerations of law and fact. If the Senator will ask specific questions as to specific facts I will be glad to answer them.

Mr. MALLORY. Mr. President, I propound a question to the witness.

The PRESIDING OFFICER. The Senator from Florida propounds the following question, which will be read.

The Secretary read as follows:

Q. At what time of the week was it that you say that Davis took part in consultation with the other attorneys for the plaintiff in the Florida McGuire case?

A. Off and on every day during the week preceding the Saturday night of November 9. I can not say every day, but off and on during that week.

The PRESIDING OFFICER. Does the Presiding Officer understand the witness to say "the same week?"

The WITNESS. The same week.

Reexamined by Mr. THURSTON:

Q. Mr. President, just on one matter I neglected to examine the witness. First, I will ask you, you are a practitioner also in the State courts of Florida?

A. Yes.

Q. Will you tell me what the rules are with reference to appearance day and rule days in the circuit court in and for Escambia County?

A. Process must be issued out of the court ten days before the return day, the return day being rule day, that being the first Monday of the next succeeding month, and must be served on or before the tenth day preceding that rule day; so that process must be issued on the second Thursday before the first Monday of the month and served on or before the second Friday before the first Monday of the month.

Q. After November 9, 1901, what was the next term of the circuit court of Escambia County?

A. On the second Monday of April, 1902.

Q. How late could a suit have been begun to have been at issue at that next term of the court?

A. Under the rules a suit could have been brought returnable to the rule day in February. The plea day would have fallen on the rule day in March, and then also under the rules the case would have been at issue—would have to be at issue—by the next term of the court.

Mr. THURSTON. That is all, Mr. Blount.

Mr. BACON. Mr. President, I desire to propound a question to the witness.

The PRESIDING OFFICER. The Senator from Georgia propounds the following question, which will be read.

The Secretary read as follows:

Q. Do you know prior to the convening of the court on Monday morning that it was the intention of the counsel for Florida McGuire to discontinue the case?

A. I did not.

Reexamined by Mr. Manager DE ARMOND:

Q. I understood you to say that Mr. Davis had been counseling with the other attorneys about this case every day of that week?

A. No; I did not say every day.

Q. I understood you to say so.

A. I said off and on during the week.

Q. Now, do you know of any counsel with those attorneys at all about that case?

A. I do.

Q. How do you know it?

A. Because it was done in my presence.

Q. Done in your hearing?

A. Yes, sir. I was talking with Judge Paquet, and Mr. Davis was standing by and talking to him with reference to the probable time that that case would be tried.

Q. Now, you call that counseling with Judge Paquet, do you?

A. Well, that is a fact.

Q. Do you call that counsel between Mr. Davis——

A. I do.

Q. And Judge Paquet?

A. I do.

Q. You asked Paquet about when the case would be tried? You and Paquet were talking about it?

A. Yes, sir.

Q. And Mr. Davis was standing there?

A. Not only standing there, but he and Judge Paquet were talking about whether it would be ready for trial.

Q. Just state what they said.

A. I can not state it any more distinctly than that they were talking about when that case would come off for trial.

Q. Let me ask you whether you have any knowledge at all about Mr. Davis being in that case until he appeared to have the case dismissed?

A. I have no knowledge except what I have said, that he was with Judge Paquet, talking with Judge Paquet about the case——

Q. Now, what did he say?

Mr. HIGGINS. Let him answer.

Mr. Manager DE ARMOND. Very well.

The WITNESS. He said just what I have said.

Q. (By Mr. Manager DE ARMOND.) Just what did he say?

A. I can not tell you.

Q. What did Judge Paquet say?

A. Judge Paquet was asking as to when the case would be tried.

Q. Asking whom?

A. Asking me. I was talking with the district attorney——

Q. Go on; proceed.

A. Just a moment, please; let me finish my answer, and then I will answer your question. I was talking to the district attorney and saw him usually every morning, and then Judge Paquet and I would talk over the question as to whether that case would be tried that week or not, and Mr. Davis was present and joining in the conversation.

Q. What did Davis say?

A. I do not remember.

Q. What did you say to Davis?

A. I did not say anything to Davis.

Q. What did Paquet say to Davis?

A. I do not know.

Q. Now, then, you can not tell a single thing that passed between Davis and Paquet in the way of consultation, but who, you say, consulted frequently?

A. I say so very decidedly.

Q. What was the consultation about?

A. They consulted about the question of getting ready for the case when it would be called toward the end of that week.

Q. They consulted in your presence about getting ready for the case upon trial?

A. Yes, sir.

Q. That happened frequently?

A. It happened three or four times; yes; off and on during the week.

Q. Why did it become necessary for you to consult Judge Paquet about the time of the trial?

A. Why did it become necessary for me to consult with Judge Paquet?

Q. Why did you do it?

A. Because I always do that—consult with counsel on the other side when the time of trying the case is uncertain. I talk to them as to when it will probably be tried.

Q. You said, I believe, there had been no day fixed for the trial of that case until that Saturday evening?

A. None.

Q. None of you knew when it would come to trial?

A. None, except approximately.

Q. Approximately?

A. The district attorney had said that probably they would close the criminal business the latter part of that week.

Q. Is there anything unreasonable in asking that the case be set down for trial for a particular day?

A. I thought so; yes, if you want my opinion

Q. Why did you think so?

A. Because I had tried practically the same issue half a dozen times with the same litigants, and they had tried to continue the case at nearly every term. The constant policy had been to postpone the cases and not to try them; I was ready; there was nothing else to do in the case, and I desired to try it.

Q. This was not a question of continuance. It was a question of postponement.

A. I understand that, but I had my witnesses subpœnaed. I had a witness coming from Tallahassee, an official of the court, for the purpose of attending upon the trial.

Q. Did you talk with Judge Swayne anything about when you probably could take up that case?

A. I did not that I recollect.

Q. Are you sure you did not?

A. No; I would not say. I frequently talk to the judges of the court as to when the criminal docket will be over and we can take up the civil docket.

Q. Was there any suggestion to you by Judge Swayne as to when he would probably take up that case?

A. I can not answer that; very possibly there was. As I said, I usually do it, for I want to have my witnesses in attendance when the criminal docket is closed.

Q. Did you know anything about whether witnesses had been subpœnaed upon the other side?

A. I did not.

Q. And yet you consulted with Judge Paquet frequently to find out whether or not he was ready for trial?

A. I can say again I did not consult with Judge Paquet. I talked with him just as I would talk to any attorney.

Q. You conferred with him—to use your own verb?

A. Yes.

Q. Frequently; and did not learn anything about whether his witnesses had been summoned?

A. I did not, except that he would be ready for trial.

Q. Did you not know as a matter of fact that he was not making preparation for trial until the case was set down; that is, in the way of summoning witnesses?

A. I did not. I did not know until the afternoon of Saturday that there would be any objection whatever on his part to try that case the day after the criminal docket was concluded.

Q. You live in Pensacola?

A. I do.

Q. Was there any particular reason of convenience or anything else why that case should have been tried, as far as you were concerned, on Thursday?

A. None, except that I am quite busy, and when I am ready and my witnesses ready I want to try the case.

Q. Was it not an effort to crowd the plaintiffs into trial when not prepared for trial, instead of giving them a reasonable time to get prepared?

A. Not in the slightest. I was not afraid of that in the least.

Q. Did you object to the discontinuance of the case when Mr. Davis appeared for that purpose?

A. I could not, as a matter of course.

Q. You were anxious, however, to have the ejectment suit tried, even though the plaintiffs were discontinuing? You and your clients claimed title, and you were in constructive possession, were you not, or claimed to be?

A. As to a part of it we were in actual possession; as to the rest probably in constructive possession.

Q. Do you say that you were anxious to have a case of ejectment tried when you were in possession?

A. Well, yes.

Q. And you were opposed to a discontinuance of it?

A. I did not say I was opposed to a discontinuance.

Q. You said you could not prevent the discontinuance?

A. Precisely.

Q. Did you mean by that to imply that you would like to have prevented it, or that you would not?

A. That is a mental operation I do not remember I went through with. It was, as a matter of course, a discontinuance.

Q. Were you opposed to a discontinuance of it?

A. I think, looking back at this time, that I would have preferred to have tried it and have done with it just exactly like we have done with all the rest. We had won all the rest and I expected to win that.

Q. You do not recollect, though, what your feeling was at that time, or what your belief was at that time about it?

A. I do not. Under our practice, a man could have filed an order to discontinue without application to the judge; it was a matter we had nothing to do with.

Q. Then if you do not know whether you had any opposition to a discontinuance of it you hardly know whether you were very anxious for the trial, do you?

A. That is a non sequitur I do not see.

Mr. THURSTON. Mr. President, I object to this line of questions.

Mr. Manager DE ARMOND. Very well; I am through.

Mr. THURSTON. Running into such a channel is entirely immaterial.

Mr. Manager DE ARMOND. Yes; I would not like to run into any channel not entirely satisfactory to the counsel on the other side, and I have no further questions.

Mr. FAIRBANKS. Mr. President, I move that the Senate sitting in the trial of the impeachment case adjourn until to-morrow at 2 o'clock.

The motion was agreed to; and (at 5 o'clock and 5 minutes p. m.) the Senate sitting as a court adjourned until to-morrow, Wednesday, February 22, at 2 o'clock p. m.

The managers on the part of the House of Representatives, the respondent, and the counsel for the respondent retired from the Chamber.

The PRESIDENT pro tempore resumed the chair.

HARRIS GRAFFEN.

Mr. KEAN. I ask unanimous consent for the present consideration of the bill (H. R. 659) correcting the record of Harris Graffen.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes that Harris Graffen shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a second lieutenant of the Sixth Regiment Pennsylvania Cavalry Volunteers on the 18th of September, 1862, and that the charge of desertion standing against him upon the records of the regiment shall hereafter be held and considered to be erroneous and without effect; but no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GOVERNMENT OF CANAL ZONE.

Mr. KITTREDGE. Mr. President, I ask unanimous consent for the present consideration of the bill (H. R. 16986) to provide for the government of the Canal Zone, the construction of the Panama Canal, and for other purposes; and I also ask unanimous consent that the formal reading of the bill be dispensed with, that it be read for the purpose of amendment, and that the committee amendments be first considered.

Mr. BAILEY. Mr. President, we are not able to hear what is the request.

The PRESIDENT pro tempore. The Senator from South Dakota asks unanimous consent for the present consideration of the bill relating to the government of the Canal Zone.

Mr. BERRY. Let the title of the bill be read, Mr. President.

The PRESIDENT pro tempore. The bill will be read by its title.

The SECRETARY. A bill (H. R. 16986) to provide for the government of the Canal Zone, the construction of the Panama Canal, and for other purposes.

The PRESIDENT pro tempore. The Senator from South Dakota asks that the formal reading of the bill be dispensed with, and that it be read for amendment.

Mr. BAILEY. I did not understand that unanimous consent had been given——

The PRESIDENT pro tempore. It has not.

Mr. BAILEY. Well, I understood the Chair to submit a request that the reading of the bill be dispensed with. I have no objection, of course, if the bill is satisfactory to the Democrats on the committee.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

Mr. PETTUS. I ask that the bill be read for information, Mr. President.

The PRESIDENT pro tempore. There are a great many amendments reported to the bill, and the Senator from South Dakota [Mr. KITTREDGE] has asked unanimous consent that the first formal reading of the bill be dispensed with, that it be read for amendment, and that the committee amendments first receive consideration. The first question before the Senate is, Will unanimous consent be given to consider the bill at all?

Mr. MORGAN. I object to some of the committee amendments, and I want an opportunity to discuss them.

Mr. KITTREDGE. Then, Mr. President, inasmuch as there seems to be some objection, I move that the Senate proceed to the consideration of the bill.

The PRESIDENT pro tempore. The Senator from South Dakota moves that the Senate proceed to the consideration of a bill, the title of which will be again stated.

The SECRETARY. A bill (H. R. 16986) to provide for the government of the Canal Zone, the construction of the Panama Canal, and for other purposes.

The PRESIDENT pro tempore. The question is on the motion of the Senator from South Dakota to proceed to the consideration of the bill the title of which has just been stated.

Mr. McCUMBER. I presume that that would displace the unfinished business. It is not included in the motion to proceed to the consideration of the bill, and it would displace it unless it was specially excepted. Am I correct?

The PRESIDENT pro tempore. It would displace it if the motion were to prevail.

Mr. ALLISON. Mr. President, I do not understand that anyone objects to the consideration of the bill.

Mr. KITTREDGE. Then I withdraw my motion.

Mr. ALLISON. I do not understand the Senator from Alabama [Mr. MORGAN] to object.

Mr. MORGAN. I did not.

Mr. ALLISON. The Senator only wishes to have an opportunity of discussing some of the amendments. So I hope the request of the Senator from South Dakota will be renewed.

Mr. KITTREDGE. Then, Mr. President, I withdraw my motion and renew my request.

The PRESIDENT pro tempore. The Senator from South Dakota asks unanimous consent for the present consideration of the bill named by him. Is there objection?

Mr. HEYBURN. I would inquire whether on not that would affect the unfinished business?

Mr. ALLISON. It would not.

Mr. HEYBURN. But a motion would?

Mr. CULLOM. A motion would; but it has been withdrawn.

Mr. ALLISON. An agreement by unanimous consent does not affect the unfinished business.

The PRESIDENT pro tempore. The Chair will put the question differently. The Senator from South Dakota [Mr. KITTREDGE] asks unanimous consent that the unfinished business may be temporarily laid aside, and that the Senate proceed to the consideration of the bill named by him.

Mr. PETTUS. Mr. President, I can not learn what the contents of the bill are, and until I can so learn I refuse consent.

The PRESIDENT pro tempore. The Senator from Alabama objects.

Mr. KITTREDGE. Then I move that the unfinished business be temporarily laid aside, and that the Senate proceed to consider House bill 16986.

Mr. TELLER. You can not do that.

The PRESIDENT pro tempore. The Chair is perfectly aware that that motion can not be made.

Mr. GORMAN. I trust the Senator from Alabama will withdraw his objection to the consideration of this bill.

Mr. TELLER. Let the bill be first read.

Mr. GORMAN. There is no objection to its being read if the Senator so desires.

Mr. PETTUS. The bill will have to be read anyhow, Mr. President.

The PRESIDENT pro tempore. The Senator from South Dakota has asked leave that the first formal reading of the bill might be dispensed with and that it should be read for amendment, the committee amendments to be first considered.

Mr. PETTUS. I ask, before I consent to that, that the bill be read.

The PRESIDENT pro tempore. The bill will be read.

The Secretary proceeded to read the bill as reported by the committee.

Mr. BAILEY. The reading clerk is doing precisely what the Senator from Alabama [Mr. PETTUS] objected to being done. He is simply reading the amendments; and I understood the Senator from Alabama to demand the reading of the bill.

The PRESIDENT pro tempore. The clerk is reading the bill with the exception of the portions that the committee report to strike out.

Mr. BAILEY. But the parts stricken out were in the original bill, and the Senate committee has reported to amend by striking them out.

The PRESIDENT pro tempore. The bill will be read in full if the Senator desires.

Mr. BAILEY. I have no care about it, except I supposed that the Senator from Alabama had insisted on the bill being read in full, and, if so, it ought to be done in that way.

The PRESIDENT pro tempore. The Secretary will read the bill.

The Secretary proceeded to read the bill.

Mr. PETTUS. In order to avoid any confusion about this matter, I will withdraw my objection.

The PRESIDENT pro tempore. The objection of the Senator from Alabama [Mr. PETTUS] is withdrawn.

Mr. KITTREDGE. Now I renew my request, Mr. President, for unanimous consent for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 16986) to provide for the government of the Canal Zone, the construction of the Panama Canal, and for other purposes, which had been reported from the Committee on Interoceanic Canals with amendments.

The PRESIDENT pro tempore. The Senator from South Dakota has asked unanimous consent that the formal reading of the bill be dispensed with, that it be read for amendment, the committee amendments first to receive consideration. Is there objection? The Chair hears none, and that order is made.

The first amendment reported by the Committee on Interoceanic Canals was to strike out section 1, as follows:

That the zone of land and land under water of the width of 10 miles, extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed thereon, which said zone begins in the Caribbean Sea 3 marine miles from mean low-water mark and extends to and across the Isthmus of Panama into the Pacific Ocean to the distance of 3 marine miles from mean low-water mark, excluding therefrom the cities of Panama and Colon and the harbors adjacent to said cities, but including all islands within said described limits, and in addition thereto the group of islands in the Bay of Panama named Perico, Naos, Celubra, and Flamenco, and any lands and waters outside of said limits above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal, or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation, and protection of said enterprise, the use, occupation, and control whereof were granted to the United States by the treaty between the United States and the Republic of Panama, the ratifications of which were exchanged on the 26th day of February, 1904, shall be hereafter known and described as the Canal Zone, and the canal to be constructed thereon shall be known and described as the Panama Canal.

The amendment was agreed to.

The next amendment was, in section (2) 1, on page 2, line 16, after the words "of the," to insert "session of the;" in line 17, after the word "Congress," to insert "beginning the first Monday of December, 1905;" in line 20, before the word "Canal," to strike out "said," and insert "the;" in the same line, after the word "Zone," to insert "at Panama;" in line 21, after the word "make," to insert "and enforce;" in line 23, after the word "granted," to strike out "by the terms of the treaty aforesaid to the United States shall be vested in the President of the United States and may be by him" and insert "to the United States by the terms of the treaty between the United States and the Republic of Panama, the ratifications of which were exchanged on the 26th day of February, 1904, are;" so as to make the section read:

That until the expiration of the session of the Fifty-ninth Congress, beginning the first Monday of December, 1905, unless other provision be sooner made by Congress, all the military, civil, and judicial powers of the United States in the Canal Zone at Panama, including the power to make and enforce all rules and regulations necessary for the government of the Canal Zone, and all the rights, powers, and authority granted to the United States by the terms of the treaty between the United States and the Republic of Panama, the ratifications of which were exchanged on the 26th day of February, 1904, are vested in such person or persons, and shall be exercised in such manner, as the President shall direct for the government of said Canal Zone and maintaining and protecting the inhabitants thereof in the free enjoyment of their liberty, property, and religion.

The amendment was agreed to.

The next amendment was to strike out section 3, as follows:

SEC. 3. That the President, through one of the Executive Departments of the Government to be designated by him, or otherwise in his discretion, shall cause to be excavated, constructed, and completed in said Canal Zone a ship canal between the Caribbean Sea and the Pacific Ocean, utilizing to that end, as far as practicable, the work heretofore done by the New Panama Canal Company of France and its predecessor company. Such canal shall be of sufficient capacity and depth as shall afford convenient passage for vessels of the largest tonnage and greatest draft now in use, and such as may be reasonably anticipated, and shall be supplied with all necessary locks and other appliances to

meet the necessities of vessels passing through the same from ocean to ocean; and he shall also cause to be constructed such safe and commodious harbors at the termini of said canal and make such provision for defense as may be necessary for the safety and protection of said canal and harbors; and he shall also, whenever the right so to do has been acquired, cause the Panama Railroad and the property and rights appertaining thereto to be managed and operated in such manner as may be deemed desirable. The President is hereby authorized, for the purposes described in this act, to appoint and employ such persons, with such official designations, as he may deem necessary from time to time, and to dismiss the same, and to fix their compensation until such time as Congress may by law regulate the same; and the President is further authorized to employ and assign such offices with suitable equipment as may, in his discretion, be necessary and proper to carry out the purposes of this act, and to fix the compensation for the same until Congress may by law otherwise provide.

The amendment was agreed to.

The next amendment was, in section (4) 2, page 4, line 17, after the word "order," to insert "or by either House of Congress;" in line 20, before the word "Panama," to strike out "said" and insert "the;" and in line 21, before the word "Panama," to strike out "said" and insert "the;" so as to read:

That the President shall annually, and at such other periods as may be provided, either by law or by his order, or by either House of Congress, require full and complete reports to be made to him by the persons appointed or employed by him in charge of the government of said Canal Zone, the construction of the Panama Canal, and the operation of the Panama Railroad, including an itemized account of all moneys received and expended, which said reports shall be by the President transmitted to Congress, etc.

The amendment was agreed to.

The next amendment was, in section (4) 2, on page 4, line 23, after the word "Congress," to insert "or to either House thereof, as may be requested;" so as to read:

which said reports shall be by the President transmitted to Congress or to either House thereof, as may be requested.

Mr. TELLER. I want to object to that amendment. I desire to know from some one what necessity there is for inserting the words "or to either House thereof, as may be requested." I understand the right of either House now exists to call on the Executive for any information that may be desired. I am not quite willing to see anything go into an act that might indicate that we are not able to call for information without a specific provision of law.

Mr. MALLORY. I call the Senator's attention also to line 17 on the same page.

Mr. KITTREDGE. Mr. President, the reason for that amendment was that, in the judgment of the committee, either House could act independently.

Mr. TELLER. Mr. President, either House can do that now.

Mr. KITTREDGE. If that is true——

Mr. TELLER. Either House can call on the President for information. It has been done thousands of times, I suppose. In line 17 the words in italics "or by either House of Congress," should be stricken out, and in lines 23 and 24 the words "or to either House thereof, as may be requested" should also be stricken out.

Mr. KITTREDGE. I suggest to the Senator that I have no objection to either amendment going out.

Mr. TELLER. If those amendments go out, I want it understood that I am not antagonizing this bill.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. It is proposed to reject the amendments of the committee in section (4) 2, page 4, line 17, inserting the words "or by either House of Congress," and in lines 23 and 24, inserting the words "or to either House thereof, as may be requested;" so as to read:

SEC. 2. That the President shall annually, and at such other periods as may be provided, either by law or by order, require full and complete reports to be made to him by the persons appointed or employed by him in charge of the government of said Canal Zone, the construction of the Panama Canal, and the operation of the Panama Railroad, including an itemized account of all moneys received and expended, which said reports shall be by the President transmitted to Congress.

The amendments were rejected.

The reading of the bill was resumed.

The next amendment of the Committee on Interoceanic Canals was, in section (4) 2, page 4, line 24, to strike out:

And any of the persons appointed or employed by the President in connection with the said government or the said work of construction or operation shall give to Congress or to either House of Congress such information as may at any time be required either by act of Congress or by the order of either House of Congress in relation to their respective actings and doings and the receipt and expenditure of money.

The amendment was agreed to.

The next amendment was, in section (4) 2, on page 5, line 20, after the word "Congress," to strike out:

Except that the moneys received, in the ordinary course of business, from the operation of the Panama Railroad and the property and rights appertaining thereto may be expended, so far as necessary, in defraying the expenses of such operation, including maintenance, without being covered into the Treasury of the United States, and such moneys are hereby appropriated for such purpose, and monthly reports of such receipts and expenditures shall be made to the President by the person or persons in charge.

And insert:

All income at any time received by the United States from rentals, dividends, or otherwise in respect of any property now possessed or hereafter acquired in connection with the canal, the railroad, or other works, shall be turned into and credited to the fund for the construction of said canal and works.

Mr. TELLER. Mr. President, I do not want to delay the passage of this bill, and I am not hostile to its general provisions, but I do think that that provision is in contravention of the Constitution of the United States. I think all income received from these sources should go into the Treasury and be appropriated like other money. I made this objection the other day as to another bill, but it was a little too late, as the bill had already been passed, I think. I want to make it now. I do not care to discuss it. It is a plain provision of the Constitution that all money shall be put into the Treasury and then appropriated by Congress.

Mr. KITTREDGE. Mr. President, this amendment provides that the funds collected from any source shall be turned into the Treasury in effect, but into the fund devoted to the construction of the canal. It is required in another place in this bill that the money expended shall be paid out of the Treasury.

Mr. TELLER. If it is clear that this money goes into the Treasury——

Mr. KITTREDGE. It does.

Mr. TELLER. And that it is simply held in trust——

Mr. KITTREDGE. It goes into the Treasury.

Mr. TELLER. Then I do not myself see any necessity for that provision. We have determined to build this canal, and we are going to build it without reference to the income that is derived from the railroad or anything else.

Mr. KITTREDGE. Mr. President, it seemed to the committee that the moneys received on account of the interest that the Government has in the railroad and from rents and profits on account of the property acquired should go into the fund to be used for the construction of the canal, and not into the general fund of the Treasury.

Mr. TELLER. Mr. President, this bill provides for the putting in bank of a million and a half dollars. That would be, in my judgment, the fund into which this money would be turned, if you leave the bill in its present shape.

Mr. BAILEY. Mr. President, I should like to ask if, under the law as it now exists, or as it will exist if this bill becomes a law, there is a fund in the Treasury of the United States segregated from the general moneys there and known as the "construction fund?" If there is not, then plainly this provision does not command that that money be covered into the Treasury, but that it shall be deposited in a bank or somewhere else, to be drawn out not in consequence of appropriation but upon draft. The bill provides that the income received by the United States from rentals, dividends, etc., shall be turned into and credited to the fund for the construction of said canal.

If it is merely a matter of bookkeeping, we might just as well not keep a separate account of what we are going to spend on this canal. I think we are going to spend more than enough before we are through with it.

Mr. ALLISON. Mr. President, I think it is worth while to keep an account, and a full account, of all the expenditures connected with the construction of this canal. It may be of great value to us hereafter.

Mr. BAILEY. The Senator from Iowa does not understand me to mean that we should keep no account of expenditures?

Mr. ALLISON. I understand——

Mr. BAILEY. I mean in a separate fund.

Mr. ALLISON. I think we ought to keep a separate fund, which may be of great use hereafter in many ways—for instance, for the purpose of fixing tolls for the use of the canal.

Mr. BAILEY. If the Senator from Iowa thinks that way, as he has had long experience in the fiscal operations of the Government, and if that is satisfactory to him, I accept it, but I hope the chairman of the committee will agree that the money shall be covered into the Treasury.

Mr. ALLISON. There is another provision in this bill that I think is a valuable one, and that is that the money shall be appropriated from time to time for the construction of the canal. Therefore, when this money gets into the Treasury it will not get out until after it has been appropriated.

Mr. BAILEY. It can not under the Constitution. No money can be drawn from the Treasury except in consequence of an appropriation.

Mr. KITTREDGE. At the suggestion of the Senator from Texas——

Mr. BAILEY. The Senator from Colorado.

Mr. KITTREDGE. I move to amend the amendment, by adding the words "the Treasury," after the word "into," in section (4) 2, page 6, line 8; so as to read:

All income at any time received by the United States from rentals, dividends, or otherwise in respect of any property now possessed or hereafter acquired in connection with the canal, the railroad, or other works, shall be turned into the Treasury and credited to the fund for the construction of said canal and works.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Interoceanic Canals was, on page 6, to strike out section 5, as follows:

SEC. 5. That so much of the act entitled "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans," approved June 28, 1902, as provides for the appointment of the Isthmian Canal Commission, and fixing its duties and powers, is hereby repealed.

The amendment was agreed to.

The next amendment was, in section (6) 3, on page 7, line 4, after the word "use," to insert "and necessity;" so as to read:

SEC. 3. That whereas the Panama Railroad Company is a domestic corporation of the State of New York, organized and existing under and by virtue of the laws of said State with principal place of business in the city of New York, in said State; and whereas the corporate stock of said Panama Railroad Company is divided into 70,000 shares, of the face value of $100 each, and the United States now owns 68,964 shares thereof, of the face value of $6,896,400, leaving a balance of 1,036 shares, of the face value of $103,600, still subject to private ownership; and whereas the public use and necessity requires for the accomplishment of the public work and national endeavor entered upon pursuant to the act of Congress approved June 28, 1902, entitled "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans," that the United States should own and control all of the shares of the corporate stock of the Panama Railroad Company.

The amendment was agreed to.

Mr. BAILEY. Mr. President, I very much regret that the committee has not seen its way clear to condemn this property outright and thus acquire the title for the United States as a Government. In the first place, I believe that we are apt to be confronted with serious difficulties when we undertake to do a governmental work under a private charter. I do not believe that the precise question has been passed upon by our courts as to the Government of the United States, but repeatedly it has been decided that whenever a State owns stock in a corporation the State is simply a stockholder, like any individual. We all remember that in the old State banks many of the States were not only stockholders, but were the principal stockholders, and in some cases, I believe, were the only stockholders. And yet the Supreme Court of the United States held that a bank whose stock was so owned was subject to be sued the same as any other bank, and that the fact that the State was the principal or sole stockholder did not affect the legal principle.

Mr. PATTERSON. Will the Senator from Texas permit me? Is it the opinion of the Senator from Texas that the Government has the right to condemn railways for Government ownership and operation; and if railways shall be condemned for public ownership, would it not be a precedent for the condemnation of other railways for the public ownership and operation of such other railways?

Mr. BAILEY. I think the Senator from Colorado has put a question of larger consequence than most of us here are apt to think without reflection. Replying directly to it I will say that it not only will become a precedent in law, but it may become a precedent in the economic practice of the Government. If the Government of the United States is to own a railroad in a foreign country or in a part of the United States not contiguous to the States which compose the Union, Senators will find it difficult to oppose the argument in favor of owning one here. If the Government of the United States is to own a railroad for the purpose of transporting produce or merchandise across the Isthmus of Panama, I am not prepared to say that you can differentiate that on any principle from the construction or ownership of other railways to transport produce across the American continent.

Mr. MORGAN. If I may make a suggestion to the Senator from Texas, we acquired the right to own this railroad, the Panama Railroad, by a treaty with a foreign country. We can not make a treaty with a State. We can not acquire the right in that way.

Mr. BAILEY. The Senator from Alabama misapprehended me. I was not then considering the question of power, but simply suggesting a question of policy. I was simply saying that if it were wise to construct a railroad or to purchase a railroad across the Isthmus of Panama, then it can not be a serious folly to construct or purchase a railroad across the American continent.

Now, my way of thinking about the railroad and the canal is simply this: If we own the canal we do not of necessity become a common carrier, but owning that great highway, made out of water, every man with goods to transport and with a ship in which he may transport them can be his own common carrier; or if an owner is without a vessel of his own, he can employ somebody who does perform the duty of a common carrier to transport his goods over the Government's waterway. But this system is not possible with the railway. The ownership and the operation of a railway are practically inseparable, and it must transpire that when the Government of the United States undertakes to operate a railroad anywhere it will reduce itself from a sovereign to a common carrier for hire. If it is going to perform the function of a common carrier in any part of the world let it perform it here. It is no worse at one place than at another.

I object to the governmental ownership and operation of railroads, because I believe it is the business of the Government to govern and not to perform functions that ought to be performed by individuals or corporations. But if the people who have goods to be transported across the Isthmus of Panama are to have the benefit of governmental rates, why shall not the people of the United States enjoy the same benefaction?

But, Mr. President, I did not rise to make that argument or even to suggest it, though it must have suggested itself to every active mind in the Senate as it did to the distinguished Senator from Colorado. What I rose to say was that if the Government wants this railroad for the purpose of using it in the construction of the canal the Government ought to condemn the physical property; and whatever the assessment may be it will be divided among the stockholders of the railroad, the Government receiving its due proportion and the private stockholders receiving theirs.

I myself have a serious question about the right of one partner to condemn another partner's property, and I have no question at all about the morality of such a proceeding.

The Government is now in partnership with these other stockholders. The Government wants its partners to sell out to it. They decline to do so. The Government walks into its own court and, under the authority of its own law, proceeds to dissolve the partnership with its own partners.

Nobody questions that if this is a public work within the meaning of the Constitution, provided the Constitution extends to the Isthmus of Panama, about which there will probably be a division in the Supreme Court of the United States when the question reaches there, the Government has the power to condemn. But it seems to me that the way freest from objection is for the Government to condemn the physical property. If we proceed otherwise, if we condemn the stock, and if we shall be adjudged to possess the power to condemn it, then the Government of the United States will become the sole stockholder of a private corporation or quasi-private corporation, if you choose to use that as a more apt expression; and according to the decisions of the courts a corporation in which the Government is a stockholder is nevertheless a corporation and subject to be sued the same as any other corporation.

That has been decided repeatedly as to the States. I remember the Kentucky case. That State was a large stockholder in a State bank, and when the bank was sued the State claimed exemption for it upon the ground that it was a State institution. The Supreme Court of the United States, in a great opinion delivered by Justice Story, as I remember, said that when a State chose to become a stockholder in a corporation it invested itself with all the attributes of a stockholder; and the Government of the United States must be held to the same rule.

So far as I am concerned, I am opposed to the Government owning and operating a railroad anywhere, and I want to warn Senators, though I do not desire to go into that question, that if the Government once enters upon the policy of owning and operating railroads in any part of the world, it will not escape the demand, even now stronger than many Senators think, for their ownership and operation in this country. Already the newspapers are filled and already many of the legislative halls are filled with arguments which seem to despair of any relief except through governmental ownership and operation.

Mr. President, if we have reached a point in our development and civilization when socialism is the best remedy which our wisdom can devise for monopoly, I am ready to surrender my public position and retire to private life. I have no interest in a contest between monopoly and socialism, for no matter which wins the country suffers. I believe the wisdom of the American people can find a better remedy if only their public servants shall have the courage to resist unreasoning clamor on one hand and the fidelity to do their full duty on the other.

Mr. TELLER. Mr. President, this is a House provision. I have objected to it, not publicly, but in private, and I was told that it was very important that the Government should secure

the remainder of this railroad stock, which it seems it is not able to do in the ordinary commercial way. I do not know what obstruction there may be in the way, whether the Government does not desire to pay enough or whether it does not know who owns it or how it happens. I am not sufficiently advised to determine how important it is for the Government of the United States to have this moiety, and a very small moiety, as I understand, of the stock. The Senator from South Dakota [Mr. KITTREDGE] tells me there are outstanding in the hands of private owners about a thousand shares out of 70,000. Ordinarily the proportion of stock which the Government holds gives its holders control of the corporation. It may be the Government wants to do something that I do not understand. If it simply wants to operate the railroad, it can do that. If it is necessary to change the line of the railway because of the canal, it can do so, because a corporation can do that.

Are the wants of the Gvernment of the United States sufficient to justify us in entering upon this system? I doubt very much, as a question of law, whether a majority of the stockholders can compel the minority stockholders to sell to them. I do not believe they can. But if that, in the case of the Government, can be done by condemnation proceedings, if that is the law, the Government of the United States can by that method become the owner of the remainder of this stock, and thus become the absolute owner of the railroad.

As the Senator from Texas [Mr. BAILEY] said, there is a demand at this time for Government ownership of railroads. I have heard it for some years, and so has everybody else. I know that there is complaint, and just complaint, made against the railroad companies of this country. I do not mean to say that all the complaints are just, but some of them are. But there ought to be a remedy outside of ownership by the Government.

Mr. BAILEY. And there is.

Mr. TELLER. And, as the Senator from Texas says, there is. There is, Mr. President, unless the American people are a set of imbeciles. The States have the power to control the railroads within the States and as to intra-State traffic, and we certainly can control to a certain extent—how far I do not know yet—railroads engaged in interstate commerce. Perhaps when the Committee on Interstate Commerce shall report on the bill which came from the House we may know more about what the power of Congress is over these questions.

I do not mean to express any opinion on the House bill. I simply say as the Senator from Texas says, that I have never been able to bring my mind to believe that the remedy for the complaint is Government ownership of railroads. I hope I shall never see ownership by the National Government of railroads as a policy. If you begin with one, you will have to take all. Mr. President, it would be frightful for any man to contemplate what would be the condition if the Government of the United States should take control of all the railroads in the United States and attempt to operate them.

I do not want to hinder the passage of this bill. I do not want to do anything that may look like an attempt to obstruct it. I made a fight against the canal. I voted against it at every possible opportunity, and more than twenty years ago I spoke in the Senate against the proposition to build a waterway across the Isthmus by which ships must climb over a mountain. I knew then, as I know now, that a canal built in that way will never be a success. I voted for what is called the "Spooner amendment" to the so-called "Hepburn bill," which provided for a canal on the Nicaragua route. I voted for it, stating here on the floor that I was opposed to the canal and did not believe it would be a success, but that if a canal was ever to be built which would be a success it must be a sea-level or water-line canal.

Mr. President, we are still uncertain whether we are to build a canal that will be 90 feet in the air or 60 feet in the air or 30 feet in the air, or whether it shall be on the sea level, so that a ship may go across it in the natural way in which ships are expected to be operated. More than two years ago we passed the bill, and we are still in doubt. This bill, in my opinion, as proposed to be amended by the committee, is infinitely better for the progress of the canal than as the House passed it. I believe that the canal can be built, and that it can be built on the water line. I do not believe it can be built for $200,000,000 or $250,000,000. I doubt whether it can be built and properly equipped for less than five or six hundred million dollars.

The American people have determined to build the canal. I pledged myself here at the last session of Congress that I should no longer oppose any appropriation or any effort to build the canal. While the amount of money is great, and I believe it will be largely wasted, yet we are rich enough if we determine we want a canal to build it. So I am not objecting to this simply because I have not been a supporter of the canal. I object to it because I believe it establishes a principle and makes a precedent that we ought not to make.

Mr. McCOMAS. I should like to offer and have pending an amendment, to be inserted at the end of section 2; and I ask that it be printed in the RECORD. It is section 1 of the bill reported by the senior Senator from New Hampshire [Mr. GALLINGER] from the Committee on Commerce, as to the carrying in American vessels of certain commerce from this country to Panama and from Panama to this country, as was done in the army and naval bills.

The amendment is as follows:

It is proposed to insert at the end of section 2 the following:

"That vessels of the United States, or vessels belonging to the United States, and no others, shall be employed in the transportation by sea from the United States of all materials, supplies, machinery, and equipment employed on, or used for, the Panama Railroad, or for the construction and operation of the canal across the Isthmus of Panama, and each contract for such articles shall provide specifically for transportation by vessels of the United States, and vessels of the United States or belonging to the United States and no others shall be employed in the return by sea to the United States of such materials, supplies, machinery, and equipment, unless the President shall find that the rates of freight charged by such vessels are excessive and unreasonable or that vessels of the United States or belonging to the United States are not available for prompt service: *Provided*, That no greater charges be made by such vessels for transportation of such articles for the use of the Panama Railroad or the construction and operation of the canal across the Isthmus of Panama than are made by such vessels for the transportation of like goods for private parties or companies."

HOUR OF MEETING TO-MORROW.

Mr. ALLISON. I move that when the Senate adjourn to-day it be to meet at 11 o'clock to-morrow morning.

The motion was agreed to.

Mr. MONEY. May I ask a question? What is the programme for to-morrow?

The PRESIDING OFFICER. Washington's Farewell Address will be read immediately after the reading of the Journal. It takes about one hour.

Mr. MONEY. Do I understand it is 11 o'clock or 12 o'clock?

The PRESIDENT pro tempore. The Senate will meet to-morrow at 11 o'clock, on the motion of the Senator from Iowa.

GOVERNMENT OF CANAL ZONE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 16986) to provide for the government of the Canal Zone, the construction of the Panama Canal, and for other purposes.

Mr. CULLOM. If this bill is to be further considered this evening, I hope it will be proceeded with. If not, I wish to move an executive session.

Mr. GORMAN. I trust we may reach an agreement about taking up this bill. Of course all Senators understood——

Mr. CULLOM. It is an important bill, and I should be glad to see it pass in some proper form.

Mr. GORMAN. It is not only important, but absolutely necessary, for the law expires on the 4th of next March. Therefore, at the suggestion of the Senator in charge of the bill, I ask unanimous consent that immediately after the reading of the Farewell Address to-morrow this bill may be taken up without displacing——

Mr. CULLOM. The regular order.

Mr. GORMAN. The regular order. I understand the Farewell Address will be read at 12?

Mr. CULLOM. At 11.

The PRESIDENT pro tempore. What is the regular order?

Mr. GORMAN. I ask unanimous consent that immediately after the routine morning business the present bill be considered.

The PRESIDENT pro tempore. The Senator from Maryland asks unanimous consent that the bill under consideration may be taken up to-morrow immediately after the reading of the Farewell Address.

Mr. GORMAN. Yes.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is agreed to.

TWENTIETH REGIMENT NEW YORK VOLUNTEER INFANTRY.

Mr. ALGER. I ask unanimous consent for the present consideration of the bill (H. R. 1860) for the relief of certain enlisted men of the Twentieth Regiment of New York Volunteer Infantry, and I propose an amendment to it.

The PRESIDENT pro tempore. The bill has been read in full to the Senate. Objection was made to its consideration, and that objection, the Chair understands, is withdrawn.

Mr. ALGER. With the four lines that are underlined stricken out.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Michigan will be stated.

The SECRETARY. In line 13, page 1, it is proposed to strike out the following proviso:

Provided, That the Military Secretary of the Army, after investigation of each case on the merits, shall determine that it is meritorious and the soldier entitled to an honorable discharge.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

COURTS IN SOUTH CAROLINA.

Mr. LATIMER. I ask unanimous consent of the Senate to call up a bill unanimously reported from the Committee on the Judiciary. It has passed the House, and a similar bill has heretofore passed the Senate.

Mr. BEVERIDGE. What is it?

Mr. BLACKBURN. It is a bill reported without amendment. It will not take more than a minute.

Mr. LATIMER. It is the bill (H. R. 4100) to provide for the appointment of a district judge for the western judicial district of South Carolina, and for other purposes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and insert:

That section 546 of the Revised Statutes of the United States is hereby amended so as to read as follows:

"SEC. 546. The State of South Carolina is divided into two districts, which shall be called the eastern and western districts of South Carolina. The western district includes the counties of Oconee, Pickens, Anderson, Greenville, Spartanburg, Laurens, Abbeville, Greenwood, Edgefield, Saluda, Newberry, Union, Cherokee, York, Chester, Lancaster, and Fairfield as they exist at the date of the passage of this act. The eastern district includes the residue of the said State."

SEC. 2. That the President of the United States, by and with the advice and consent of the Senate, shall appoint a district judge for the said western district of South Carolina, who shall possess and exercise all the powers conferred by law upon the judges of the district courts of the United States, and who shall, as to all business and proceedings arising in said western district, succeed to and possess the same powers and perform the same duties within the said western district as are now possessed and exercised by the district judge for the eastern and western districts of the district of South Carolina, and who shall receive the same salary as the other judges of the district courts of the United States.

SEC. 3. That the present district judge, district attorney, and marshal for the eastern and western districts of the district of South Carolina, as heretofore constituted, shall continue and remain and be deemed to be the district judge, district attorney, and marshal for the eastern district of South Carolina as constituted in section 1 of this act.

SEC. 4. That there shall be a district attorney and a marshal in said western district of South Carolina, to be appointed as marshals and district attorneys are appointed in the other judicial districts of the United States. That the district attorney for the eastern district of South Carolina and the district attorney for the western district of South Carolina shall each receive the same annual salary as is now provided by law for the district attorney of the western district of North Carolina, and the marshal of the eastern district of South Carolina and the marshal of the western district of South Carolina shall each receive the same annual salary as is now provided by law for the marshal of the western district of North Carolina.

SEC. 5. That all causes and proceedings of a civil nature, now pending in the courts of the western district of the district of South Carolina as heretofore constituted, whereof the courts of the western district of South Carolina as constituted in section 1 of this act would have jurisdiction if said western district of South Carolina and the courts thereof had been constituted when said causes or proceedings were instituted, shall be, and are hereby, transferred to and the same shall be proceeded with in the said western district of South Carolina, and jurisdiction thereof is hereby transferred to and vested in the courts of said western district of South Carolina and the records and proceedings therein and relating to said proceedings and causes shall be certified and transferred thereto: *Provided*, That all causes of a civil nature and motions therein submitted, and all causes and proceedings of a civil nature, including proceedings in bankruptcy, now pending in the eastern and western districts of the district of South Carolina as heretofore constituted, in which the evidence has been taken, in whole or in part, before the district judge of the eastern and western districts of the district of South Carolina as heretofore constituted, or taken, in whole or in part, and submitted to and passed upon by the said district judge, shall be retained, proceeded with, and disposed of in the eastern district of South Carolina as constituted in this act: *Provided further*, That in all proceedings for criminal offenses heretofore committed, if the said criminal offense was committed in the eastern district, as constituted by this act, the said criminal offense shall be prosecuted in said eastern district, and if said criminal offense was committed in the western district, as constituted by this act, the said criminal offense shall be prosecuted in said western district.

SEC. 6. That a term of the circuit and district court of the United States for said western district of South Carolina, as constituted in section 1 of this act, shall be held at the city of Greenville on the third Tuesday of April, at the city of Greenwood on the third Tuesday of September, and at the city of Chester on the second Tuesday in January in each year.

Mr. LATIMER. I move to amend the amendment in section 4, page 6, line 13, by striking out "each," before the word "receive," and after the word "receive" striking out the words "the same" and inserting "an;" so as to read: "Shall receive an annual salary as is now provided by law."

The amendment to the amendment was agreed to.

Mr. LATIMER. In line 14 of the same section I move to strike out after the word "law," down to and including the words "North Carolina," in the following words:

For the district attorney of the western district of North Carolina.

The amendment to the amendment was agreed to.

Mr. LATIMER. In the same section, line 17, I move to strike out the word "each," before "receive;" and after the word "receive" to strike out "the same" and insert "an;" so as to read: "Shall receive an annual salary as is now provided by law."

The amendment to the amendment was agreed to.

Mr. LATIMER. After the word "law," in line 18, I move to strike out the words "for the marshal of the western district of North Carolina."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act dividing the State of South Carolina into two judicial districts, known as the eastern and western districts of the State of South Carolina, and providing for the appointment of a district judge, a district attorney, and a marshal for the western district."

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

RED RIVER BRIDGE IN LOUISIANA.

Mr. FOSTER of Louisiana. I ask the Senate to proceed to the consideration of the bill (H. R. 18815) to authorize the construction of a bridge across Red River at or near Boyce, La.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DEATH OF REPRESENTATIVE NORTON P. OTIS.

Mr. FAIRBANKS. Mr. President, for the senior Senator from New York [Mr. PLATT] I call up the resolutions transmitted from the House of Representatives announcing the death of his colleague in that body.

The PRESIDING OFFICER (Mr. KEAN in the chair) laid before the Senate the resolutions of the House of Representatives, which were read, as follows:

IN THE HOUSE OF REPRESENTATIVES,
February 20, 1905.

Resolved, That the House has heard with profound regret of the untimely death of Hon. NORTON P. OTIS, late a Representative from the State of New York.

Resolved, That a committee of eleven Members of the House, with such members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant-at-Arms of the House of Representatives be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expense in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The Speaker appointed as a committee to attend the funeral Mr. SHERMAN, Mr. CURRIER, Mr. SMITH of New York, Mr. SULZER, Mr. DOUGLAS, Mr. BASSETT, Mr. GOULDEN, Mr. BONYNGE, Mr. LEGARE, Mr. THOMAS, and Mr. DICKERMAN.

Mr. FAIRBANKS. On behalf of the senior Senator from New York I ask for the adoption of the resolutions I send to the desk.

The PRESIDING OFFICER. The resolutions will be read.

The resolutions were read and unanimously agreed to, as follows:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. NORTON P. OTIS, late a Representative from the State of New York.

Resolved, That a committee of five Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives, to take order for superintending the funeral of the deceased.

Resolved, That the Secretary communicate these resolutions to the House of Representatives.

The PRESIDING OFFICER appointed as the committee on the part of the Senate under the second resolution Mr. DEPEW, Mr. BURROWS, Mr. ELKINS, Mr. MARTIN, and Mr. BLACKBURN.

Mr. FAIRBANKS. Mr. President, for the senior Senator

from New York I move as a further mark of respect to the memory of the deceased that the Senate do now adjourn.

The motion was unanimously agreed to; and (at 6 o'clock and 10 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, February 22, 1905, at 11 o'clock a. m.

CONFIRMATIONS.

Executive nomination confirmed by the Senate February 21, 1905.

DEPUTY AUDITOR FOR NAVY DEPARTMENT.

Byron J. Price, of Wisconsin, to be Deputy Auditor for the Navy Department.

EXEMPTION OF HOSPITAL SHIPS.

The injunction of secrecy was removed February 21, 1905, from an authenticated copy of a convention, signed on December 20, 1904, by the plenipotentiaries of the United States and certain other countries, providing for the exemption of hospital ships in time of war from the payment of all dues and taxes imposed for the benefit of the state.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February 21, 1905.*

The House met at 12 o'clock m.

The Chaplain, Rev. HENRY N. COUDEN, D. D., offered the following prayer:

Eternal God, our Heavenly Father, once more in the dispensation of Thy providence death has entered our Congressional family and taken from the floor of this House one who, but for the inroads of an insidious disease, promised a useful and brilliant career, and who, by his genial nature and the affability of his presence, drew those with whom he came in contact ever near to him. Comfort, we beseech Thee, his colleagues and friends and those to whom he was nearest and dearest, by the blessed hope and promise of the Gospel of Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

PUBLIC CONVENIENCE STATIONS IN THE DISTRICT OF COLUMBIA.

The SPEAKER laid before the House the bill (S. 4156) for the establishment of public convenience stations in the District of Columbia, with House amendments thereto, disagreed to by the Senate.

Mr. BABCOCK. I move that the House do further insist upon its amendments, and agree to the conference asked by the Senate.

The SPEAKER. The question is on the motion of the gentleman from Wisconsin, that the House do further insist on its amendments and agree to a conference.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. BABCOCK, Mr. ALLEN, and Mr. COWHERD.

DAM AND RESERVOIR ON RIO GRANDE, NEW MEXICO.

The SPEAKER laid before the House the bill (H. R. 17939), relating to the construction of a dam and reservoir on the Rio Grande, in New Mexico, for the impounding of the flood waters of said river for purposes of irrigation, and providing for the distribution of said stored waters among the irrigable lands in New Mexico, Texas, and the Republic of Mexico, and to provide for a treaty for the settlement of certain alleged claims of the citizens of the Republic of Mexico against the United States of America, with Senate amendments.

The Senate amendments were read.

Mr. PERKINS. Mr. Speaker, I move that the House concur in the Senate amendments.

The motion was agreed to.

On motion of Mr. PERKINS, a motion to reconsider the last vote was laid on the table.

PHILIPPINE TARIFF.

Mr. PAYNE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 18965), to revise and amend the tariff laws of the Philippine Islands, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 18967, the Philippine tariff bill, with Mr. SCOTT in the chair.

Mr. PAYNE. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. PAYNE. Mr. Chairman, I shall take very little time in explaining this bill. It is a general revision of the tariff laws of the Philippine Islands, so far as they relate to goods imported from other countries. It does not at all affect the question of goods imported into the United States from the Philippine Islands, but it does affect goods imported from the United States into the islands. It is a general amendment of the act passed about two years ago. The changes made in that law are not very numerous. The rates have been lowered in some cases where they have been found to be too high, and they have been made ad valorem rates instead of specific in some cases. The present law provides a rate of duty at so much per kilo, or upon the dead weight of 2½ pounds upon the article, and this was found to impose a high ad valorem rate of duty on goods of inferior grade while some goods of higher grade of the same class came in at a very low percentage of duty.

In that case they have substituted in this bill an ad valorem rate in order that the duties might be more uniform. The bill is a bill for revenue. There is no protective feature in it unless it is upon the question of rice, and there is a provision there which I will explain later that may work in a way a protective duty upon rice. This bill originated with the Philippine Commission. They commenced the revision of it a year ago. They got all the information they could from the merchants and business men in the Philippine Islands and suggested their amendments to the existing law. Those amendments were sent here to Washington to the Secretary of War. He sent out circulars and letters to numerous parties in the United States, all that he could find engaged in the Philippine trade, and got their suggestions as to the amendments proposed and also for the proposal of other amendments to the proposed bill. After these were received they were carefully scrutinized and the final result was the formulation of this bill, formed wholly by the War Department and by the Philippine Commission. Both have agreed upon it at both ends of the line, and we think it is a pretty good bill.

Mr. CRUMPACKER. Will the gentleman yield?

Mr. PAYNE. Yes.

Mr. CRUMPACKER. Does the bill create any preference in favor of imports from the United States?

Mr. PAYNE. It does not, for this reason, as the gentleman is aware by the treaty of Paris we can give no preference to the United States in rates of duty unless we give them also to Spain up to January, 1909.

Mr. CRUMPACKER. Does the bill——

Mr. PAYNE. I will answer a little further in that regard. When the original act was passed two years ago it was so framed as to give advantage to American merchants by the various classifications of goods; the width of goods adapted to American looms and that sort of thing ran through the bill. In this revision the same idea has been carried out, so whatever advantage that could be given to American merchants by reason of classifications has been effected more fully in this bill, but there is no difference in the rate of duty.

Mr. CRUMPACKER. Does the bill cover the export tax that has been in force in the Philippine archipelago?

Mr. PAYNE. There is an amendment in the bill proposed by the committee, because this bill provides for an export tax as well as an import tax, preserving the old amendment in the original bill providing that goods coming to the United States shall be exempt from that export tax. We have the preference over any nation.

Mr. CRUMPACKER. Does it change the existing export tax as to other nations?

Mr. PAYNE. It does not, not materially. I will not say there is no change, as there are some immaterial variances, but it is not changed materially.

Mr. CRUMPACKER. It is substantially the same in relation to the export tax as existing law?

Mr. PAYNE. Yes; and on manila hemp it is exactly the same, and that is the greatest item of export.

Mr. GAINES of Tennessee. Mr. Chairman, will the gentleman from New York yield for a question?

Mr. PAYNE. Certainly.

Mr. GAINES of Tennessee. You stated a moment ago that while this bill was being prepared circular letters were sent out to business men on certain subjects. Where did those people live?

Mr. PAYNE. In the United States so far as the War Department is concerned, and in the Philippine Islands so far as letters sent out by the Commission were concerned.

Mr. GAINES of Tennessee. As I understand you, they sent out letters to business men who were engaged in this business, men living in the United States?

Mr. PAYNE. Certainly; those sent out by the War Department were to business men in the United States.

Mr. GAINES of Tennessee. And in what business were they engaged?

Mr. PAYNE. In almost every branch of industry that could be affected by this bill.

Mr. GAINES of Tennessee. Were any sent to men engaged in the tobacco business in the United States?

Mr. PAYNE. Yes.

Mr. GAINES of Tennessee. Who were consulted about that?

Mr. PAYNE. I could not tell the gentleman without looking at the list of the names to whom these letters were sent.

Mr. GAINES of Tennessee. I really want to get whatever information you had on that point. I am informed——

Mr. PAYNE. I want to say to the gentleman that nobody in the tobacco business is opposing any item in this bill. They do object to what is known as the Curtis bill, which would reduce the duty on goods coming from the Philippine Islands to the United States to 25 per cent of the Dingley rate; but none of them object to the provisions of this bill.

Mr. GAINES of Tennessee. What tobacco men in the United States were consulted about this?

Mr. PAYNE. I do not know.

Mr. GAINES of Tennessee. I asked the question for the purpose of stating to the gentleman that I am informed the tobacco trust, the head of which is Mr. Duke, is controlling all of the tobacco output of the Philippine Islands and that these tobacco companies are in a trust, or in a combination, not only in the United States, but in foreign nations. Now, then, there are no antitrust laws in the Philippine Islands, as I understand it, and I do hope the distinguished chairman of the committee who has charge of that matter will arrange that question at the earliest day possible, so that this or any other such combination may be made amenable to the laws that control commerce in such matters in the United States.

Mr. PAYNE. I commend the suggestion of the gentleman from Tennessee [Mr. GAINES] to the Committee on Insular Affairs, which has charge of such legislation as that. Our committee has only charge of the revenues.

Mr. GAINES of Tennessee. This Duke concern controls all of the tobacco of the United States, and they defy laws here where we have antitrust laws, and doubtless they will control trade in the Philippine Islands.

Mr. PAYNE. I only yielded for a question.

Mr. SHERLEY. Will the gentleman yield?

Mr. PAYNE. I will yield for a question.

Mr. SHERLEY. I simply wanted to say that I noticed in the report that duties on manufactured tobacco are decreased one-half. What was the reason for that decrease and what is the object sought by it?

Mr. PAYNE. Because that duty was found prohibitive upon manufactured tobacco coming from other countries to the Philippine Islands. They got no revenue from it, and they believed after investigation that the decrease of that duty would not affect the industry in the Philippine Islands.

Mr. SHERLEY. Would not affect the manufacturing industries there?

Mr. PAYNE. No; they believe they are still protected, although they can get some duty out of it.

Mr. SHERLEY. I understood the tobacco business in the Philippines was in a bad way. Therefore I was struck by this reduction and wanted the gentleman's explanation in regard to it.

Mr. PAYNE. I want to say to the gentleman from Kentucky [Mr. SHERLEY] that the tobacco business does not seem to be in as bad a way in the Philippine Islands as the sugar business. The hemp business is the principal business there.

Mr. MUDD. May I ask the gentleman a question?

Mr. PAYNE. Just one question.

Mr. MUDD. Do I understand that there is no reduction in this bill on manufactured tobacco and cigars coming from the Philippine Islands here?

Mr. PAYNE. It does not apply to that at all, or to anything coming from the Philippine Islands here. I wish the House to distinctly understand that. It does not affect in any way imports from the Philippine Islands coming to the United States. That is taken care of in another bill distinct from this. This bill only affects things going into the islands from the United States and from other countries of the world. There are some other changes made in the law, of which I propose to speak.

Mr. BURGESS. Will the gentleman from New York [Mr. PAYNE] yield?

Mr. PAYNE. I will yield for a question.

Mr. BURGESS. I wanted to ask the gentleman from New York [Mr. PAYNE] what effect, in his judgment, will the provisions in this bill have upon American rice?

Mr. PAYNE. I want to say to the gentleman from Texas [Mr. BURGESS] that notwithstanding the Philippine Islands imported $15,000,000 worth of rice last year, they imported none from the United States, and this bill leaves the duty about the same as it was in the last bill, with the additional provision that the Commission may raise the duties in the future.

Mr. BURGESS. I would like to ask——

Mr. PAYNE. Wait a moment; I was coming to that, and I presume I would come to all of these things if the gentlemen would only possess their souls. Heretofore, under the Spanish rule, the Philippine Islands raised all the rice consumed in the islands, and there was a small export.

During the past few years, and especially since the carabao were destroyed by rinderpest, they have not been able to produce all the rice that they consume in the islands. Another reason for the reduction in the rice product was the fact that Manila hemp has gotten to be so great an industry and so profitable an industry that it has led away the attention of the people from raising rice, and they are producing more hemp. They have a monopoly in the production of hemp. No other country produces hemp equal to the Manila hemp, and so they have fallen off in their production of rice. Last year $15,000,000 worth was imported, and none of that from the United States. The reports are that the crop now promises to be much better, and the importation will be much smaller during the future than in the past.

I doubt, from what was said at the hearings, if the rice from the United States were admitted to the Philippine Islands free of duty but what the Philippines would raise every pound of their rice before coming to the United States for any of it. But we do not give the United States a preference in rates on rice or anything else, because if we did that it makes the same concession on all goods coming from Spain, and we did not want to interfere with that.

Mr. BURGESS. They do not receive any rice from Spain, do they, of the $15,000,000 worth which they imported?

Mr. PAYNE. They imported it from the Orient.

Mr. BURGESS. They imported none of it from Spain; so that, as far as the rice question is concerned, the matter of equal rights to Spain has nothing to do with it.

Mr. PAYNE. No; and they do not import any from the United States.

Now, Mr. Chairman, a few things have been reduced by this bill. First, a reduction on mirrors. The duty has been found almost prohibitory; so that the grand dames in the Philippines have not been able to get that, not luxury, but necessity, of a woman of quality in the shape of mirrors; and so we have reduced the duty.

We have reduced it on porcelain on the finer grades. I was surprised to find that those people buy a great deal of porcelain of the finer grade. Silverware is reduced from $3 to $1 per hectogram, the former rates having been found practically prohibitory.

The opium schedule is the most important part of the legislation in this bill. Under Spain the importation of opium was prohibited in the Philippine Islands, but under the American rule it has been imported first for the use of the Chinese, of whom there are perhaps a hundred thousand in all the islands, and the natives are becoming addicted to the habit. The Philippine Commission appointed a commission of experts to examine into and report upon this subject. We have an exhaustive report made by this commission, of a very interesting character, which is printed by the committee as a part of the hearings, and to which I commend the attention of Members of the House. I think they will find something very instructive in reading the report of this commission. The commission reported that there ought to be authority to license the use of opium to be taken for medical purposes for three years, and finally to prohibit the importation of opium into the islands. They say that if it is not done, if measures are not speedily taken, that the evil effect of the drug will be widespread among the native inhabitants. This commission visited all the countries of the Orient and examined all the laws in reference to the use of the drug in the different countries, and the law that commended itself most to the wisdom and judgment of the commission was the law in Formosa, which prohibits the use of opium, and they hope to reach a point within the next three years where they can prohibit the importation of this drug into the Philippine Islands. So we have a provision in the bill delegating power to the Philippine Commission to prohibit the use of this drug

and to regulate the sale of it in the future. We have placed the duty upon it the same as in the former bill. This, perhaps, is the most important item in the whole bill.

Mr. ROBINSON of Indiana. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield to the gentleman from Indiana?

Mr. PAYNE. I yield for a question.

Mr. ROBINSON of Indiana. May I ask the gentleman if the bill contains a provision providing for the exclusion of Chinese in any way at all?

Mr. PAYNE. Why, we did not report any such prohibition in the bill, of course, because now they are absolutely excluded from going into the country. There is no disposition anywhere, so far as I can ascertain, in any quarter to admit Chinese into the Philippine Islands. The Commission does not desire it, the Committee on Insular Affairs do not desire it, Congress does not desire it, and I do not know that anybody is asking for it. Certainly this bill has nothing to do with it, and there is no idea of permitting Chinese to be imported into the islands.

Mr. HITCHCOCK. Will the gentleman permit an inquiry? If the opium trade is so injurious and so objectionable, will the chairman of the committee explain why this bill itself does not provide for the exclusion of opium from the Philippine Islands at the present time?

Mr. PAYNE. Well, the committee was guided a good deal by the judgment of the Philippine Commission, who are upon the ground, and the Secretary of War, who thought that the prohibition of it could not be brought about inside of the three years; that it ought to be licensed for that time and its sale strictly guarded, to be used only for medical purposes during the three years, and afterwards to be excluded from the islands.

Mr. HITCHCOCK. Is there any difficulty in excluding it at the present time?

Mr. PAYNE. There is difficulty always in excluding it, because opium is the easiest thing in the world to smuggle. There is no other article that can be smuggled so easily.

Mr. HITCHCOCK. Is there any more difficulty in excluding it at the present time than there would be at the end of three years, when the trade has become confirmed?

Mr. PAYNE. I do not know that there is.

The rates on wood and lumber, although they are quite low now, have been slightly increased for the sake of the revenue.

The furniture schedule has been reduced 50 per cent on the recommendation of the Commission. The boot and shoe schedules in the finer qualities of boots and shoes—patent leathers and such as that—have been slightly increased. The other grades have been left where they were in the former bill, and the rates are low.

I might say that the rates in this bill all the way through are low. The average rate of duty on the dutiable goods is less than 20 per cent, as we are informed by those who have figured upon it.

The most important change otherwise is the change of the duty on machinery. Machinery is generally imported from the United States, especially agricultural machinery. They have reduced the duty to a nominal rate of 5 per cent ad valorem, in order to encourage the introduction of machinery into the Philippine Islands, and still have a slight revenue from it.

As has been said, the rate on manufactured tobacco is reduced one-half.

A slight duty has been placed upon mineral waters. It seems that they have excellent mineral waters in the Philippine Islands and also in Japan, and the Japanese have been taking possession of the trade. Here is a protective duty, although a low duty, put upon mineral waters in order to protect the industries of the mineral springs in the Philippine Islands.

Then there is a section which provides that samples of merchandise may be introduced without the payment of duty. This is for the benefit of drummers and for the trade that comes from abroad.

We have also extended the exemption of articles for household use introduced by immigrants, officers, missionaries, and others going to the Philippines, and enlarged it.

It seems that during the time of the so-called "reign of Aguinaldo," in order to save the jewels and sacred vestments in the churches from pillage, which were of great value, they were taken from the churches to some of the adjoining countries for safety. When it was desired to reimport them into the Philippine Islands they found that duty must be paid upon them. So there is a clause in the bill providing that these articles may be reimported into the islands free of duty. They relate wholly to the items used in the churches.

Tonnage dues have been modified and lessened in the bill. Not more than 30 cents per net ton per annum can be charged.

At the request of the Commission and of the War Department, the bill includes an exact copy of the rebate clause of the present tariff law of the United States, and it also includes a provision similar to that in the tariff law of the United States for invoices of goods coming from foreign countries requiring the consular certificate. This has been rendered necessary because many items of the bill have been put upon an ad valorem rate of duty instead of specific, as heretofore, and where the goods come from the United States the invoice has to be made and taken before a notary public and certified by him, because, of course, we have no consuls here representing the Philippine Islands.

Mr. BARTLETT. Will the gentleman yield for a question? I wish to inquire in what way the rate on cotton and cotton fabrics and manufactured fabrics has been affected by this bill as compared with the present rate?

Mr. PAYNE. There is very little change, if any, in the whole cotton schedule. I think the language is changed in a very few instances for the purpose of giving United States mills a better chance in the market than foreign mills, through the classification of the goods. That same thing was done in the former tariff bill and has been preserved in this, and improved upon in some respects. That is the only change.

Mr. BARTLETT. It is the same thing that was in the Cuban reciprocity bill?

Mr. PAYNE. When we made the Cuban tariff bill, yes. I don't know what there is in it since the Cubans made it.

Mr. BARTLETT. I do not think the purpose that the House had in passing that bill has been realized.

Mr. PAYNE. No; the House went back on the original House bill and left it to the treaty-making power. We did not get as good a bargain as we ought to have got.

Mr. BARTLETT. On page 4 of the report are some figures in relation to the cotton manufactured goods. Can the gentleman from New York give us any information as to what the present tariff is?

Mr. PAYNE. If the gentleman has it, let him state it.

Mr. BARTLETT. I have not been able to reach it yet.

Mr. PAYNE. I can not give the gentleman information offhand, but I may a little later in the debate.

Now, Mr. Chairman, I do not know that I have anything further to say. The bill is concurred in generally, but the minority has reserved the right to offer amendments on some portions of the bill. I do not know whether the purpose of the gentleman from Texas is to offer them all together or separately.

Mr. COOPER of Texas. Some of them may be offered in bulk and some separately.

Mr. CRUMPACKER. Mr. Chairman, I would like to ask the gentleman a few questions. I notice the export tax on tobacco is graded in a peculiar fashion. On page 124 of the bill the import tax on raw tobacco from a certain province is $1.50 for a hundred kilos and from certain other provinces $1 per hundred kilos and certain other provinces 75 cents per hundred kilos. There is no discrimination, I assume, between the respective provinces in the archipelago. Is that distinction based on the quality of the tobacco?

Mr. PAYNE. Entirely so; and it is so in the present law. There is a great difference in the grades of tobacco from these different provinces.

Mr. CRUMPACKER. In relation to the tonnage tax. If the gentleman will remember, the bill that recently passed Congress, known as the "railroad subvention bill," contained a section which says that the Philippine Commission shall regulate and control the tonnage tax absolutely. Complaint was made that the existing tax was upon the capacity of ships, and that it discriminated against large boats with small cargoes, and the Commission asked that there be given it the right to regulate the tonnage tax. That bill contained a section conferring upon the Commission absolute power to regulate the tonnage tax in the archipelago. I would like to ask the gentleman if this schedule of tonnage taxes was recommended by the Commission?

Mr. PAYNE. We are informed by the Secretary of War that the bill came from the Commission recommending it from the Philippine Islands after having worked a number of months on it. They took it here and went into consideration of it.

Mr. CRUMPACKER. If this bill shall become a law, it will by necessary implication repeal that provision in the railroad subvention law. Now, there is a provision in that law exempting material sent to the Philippine Islands for the purpose of constructing railroads, exempting them from the payment of duties, and if you have no provision in this bill saving that provision it will be likewise repealed by implication.

Mr. PAYNE. I will state to the gentleman that there is such a provision. The gentleman refers to the bill passed last month?

Mr. CRUMPACKER. Yes.

Mr. PAYNE. There is an exception here which reads as follows:

Providing nothing in this act shall be construed to repeal or modify any provisions of the act relating to the Philippine Islands approved February 6, 1905.

Mr. CRUMPACKER. That is all right. I had not read the bill through, and I asked these questions purely for information.

Mr. PAYNE. That seems to be guarded.

Mr. FINLEY. Mr. Chairman, I would like to ask the gentleman from New York a question.

Mr. PAYNE. Very well.

Mr. FINLEY. This bill provides for a uniform duty on all goods going into the Philippine Islands, whether from the United States or any other country?

Mr. PAYNE. Any foreign country and the United States into the Philippine Islands.

Mr. FINLEY. There is no reduction upon goods coming from the Philippine Islands into the United States?

Mr. PAYNE. That matter is not before the House now. There is such a bill being considered before the committee.

Mr. FINLEY. I would like to have the gentleman's opinion as to how this bill will affect trade interests in the United States in the way of building up trade in the Philippine Islands, when the duties are the same as from other countries. It seems in many instances to-day that trade in the United States is far behind other countries in the Philippine Islands. Is there anything in this bill that will tend or help to build up trade from the United States in the Philippine Islands?

Mr. PAYNE. In the present law and in this bill every advantage has been given to the trade of the United States by way of classification of goods, none by change in rates or by differential rates. Everything that could be done by way of classification of goods has been done. For instance, cotton goods have been classified so as to fit American manufacturers and not foreign manufacturers.

Mr. FINLEY. I see in the report it is stated that the duty on importation of closely woven cloths from the United States was $232,780, and from all other countries $2,681,083. So it seems that in the particular which the gentleman mentions—cotton goods—this discrimination in classification has not amounted to very much in the way of building up trade from the United States with the Philippine Islands.

Mr. PAYNE. Well, it has increased the trade. Of course they are right there next to Japan, and naturally they get considerable trade there, and then the trade was all from foreign countries and not from the United States before we commenced operating in the Philippine Islands. This is a hopeful child, although it has not grown to very large proportions.

Mr. FINLEY. The point I wish to have the gentleman explain is whether or not there is anything in this bill that would help to build up trade from the United States with the Philippine Islands?

Mr. PAYNE. There is, and it is in classification and not in the difference in rates.

Mr. FINLEY. It is not in law; it will not be in the law; it will be in the classification.

Mr. PAYNE. Oh, no; it is in the classification in this law—the classification of the goods.

Mr. FINLEY. Now, under the law would not goods coming from other nations be entitled to classification.

Mr. PAYNE. Yes; but they will have to change their method of manufacture in order to fit them to our classification.

Mr. FINLEY. Does the gentleman not think that that would soon be brought about?

Mr. PAYNE. Well, it does not seem to have been.

Mr. FINLEY. Well, it seems you have resorted here to classification in order to give this advantage to American manufactures. Now, when it is a matter of classification, will not the foreign manufacturer so manufacture his goods as to meet the classification fixed in the bill?

Mr. PAYNE. I want to say to the gentleman that I hope the time will soon come when we can give our manufacturers the benefit of a difference in rate. I do not think it quite fair, however, to make that difference now in the rates as against the Philippine Islands when we are charging them 75 per cent of our tariff rates for the goods that come from the islands here. I hope to see that corrected in the future, as well as the point the gentleman is insisting upon now; but we can not do everything at once.

Mr. FINLEY. Is it not true that the treaty of Paris is the obstacle in the way?

Mr. PAYNE. It does stand in the way, because we must give the same privileges to Spain that we give to the United States, and possibly that may raise some trouble with the other countries.

Mr. FINLEY. I have great respect for the opinions of the gentleman from New York [Mr. PAYNE], and I would like to ask him in his judgment if he thinks that that treaty of Paris will continue in force?

Mr. PAYNE. Why, no; it is limited to January, 1909. It lasts four years longer, and then we have a free hand.

Mr. FINLEY. The gentleman thinks it will continue until that time?

Mr. PAYNE. The treaty will undoubtedly. I see no chance in the world of changing the treaty.

Mr. Chairman, I reserve the balance of my time.

Mr. COOPER of Texas. Mr. Chairman, the minority members of the Ways and Means Committee have not filed a minority report against this bill, nor do they object to the provisions of this bill in whole. The principal objection we have is to the principle of taxation involved in the bill. We believe that the Philippine Islands are a part of the United States, and that the taxation laws of this country should be equal and uniform in all the States, Territories, and possessions of the United States. We do not believe that the taxation in this bill is in accordance with the Constitution. The Supreme Court having, in a measure, at least, settled that, we will not now raise that question. We do not think the provisions of the bill altogether just and satisfactory to the producers and manufacturers of the United States, because it does not give the products of the United States the opportunities and advantages in the Philippine Islands that they should have. As Democrats we will offer amendments tending to encourage the export into the Philippine Islands of agricultural products and other products produced and manufactured in this country.

Notably, you will observe the tax on rice. While it is true that rice is grown in that country to a large extent and but little is imported from the United States to the Philippine Islands, yet we want to widen the market for home-grown products as much as possible, and therefore the tariff on rice from here to the Philippine Islands should be reduced as low as possible. This doctrine may appear Republican; it is Democratic; Democratic because we get revenue therefrom sufficient to defray the expenses of government; Republican to the extent that it encourages, as you say, home industries. The Democratic members of the committee have been hampered in fixing the proper rates of taxation, for the reason that under the treaty of Paris Spain has the same privileges, the same opportunities, and the same rights that the United States has in commerce and trade with the Philippines, but we have undertaken to give advantages and benefits to the products of the United States. There were a number of amendments offered in the committee by the Democratic members that were voted down. Those amendments will be again offered as we come to the schedules and provisions in the bill.

I say to the Democrats that this bill does not affect in any way imports into this country. It only affects the imports into the Philippine Islands. There is another bill pending before the committee that does affect the imports into this country, but that is not the bill now under consideration. The Philippine Islands have to have revenue to pay the expenses of their government. This bill modifies and changes the existing law to some extent, but it is not a complete and perfect measure, nor satisfactory to me or my Democratic colleagues in the committee; it is a modification and change of existing laws. I can not now give you all the changes, but the changes that we will seek to have written in the law are changes which will encourage the importation into the Philippine Islands of the products of the United States, and will raise sufficient money to defray the expenses of the government, and will justly discriminate against like products that may go there from Spain.

Mr. Chairman, I now yield fifteen minutes to the gentleman from Missouri [Mr. COCHRAN].

Mr. COCHRAN of Missouri. Mr. Chairman, here is presented what may be called one of the novelties of our colonial legislation. This bill deals with the exchange of our commodities for the products of the Philippine Islands. Like other similar legislation, it is based upon the assumption that the Philippine Islands are neither a portion of the United States nor aliens. The bill brings to mind the conflict between the theories proclaimed and the policies enforced by the Republican teachers of this queer doctrine. We have gone to the Antipodes, eight or ten thousand miles away, carried on an expensive war with the inhabitants, and expended an enormous sum of money in fortifications and military barracks, upon the pretense that among other things to be thereby accomplished is the increase of our trade with the Philippine Islands. Then, we have placed

upon the statute books laws which will prohibit an increase of the trade with the Philippine Islands. Nothing is surer than this, that any law that forbids imports forbids exports in an equal degree. If our tariff laws only forbade sending foreign goods to our shores, without necessarily forbidding Americans from sending their products to foreign markets, it would be a delightful state of affairs, but laws preventing imports of necessity prohibit exports of similar value. The words "buy" and "sell" have no legitimate place in the vocabulary of international exchanges. International trade consists in the barter of the commodities of one country for the commodities of another. To stop the inflow is to stop the outflow of commodities. To prohibit foreign manufacturers exchanging their commodities for ours is to forbid our people from exchanging our commodities for those made in foreign countries.

Mr. Chairman, this is fundamentally true of this tariff, laws applicable to our relations with our dependencies and vassals, as well as generally.

Recurring to the relations of the United States to their vassals in the Orient, I declare that they must look to us for the protection of their commercial interests, just as much as the people of this country look to Congress for the protection of their commercial interests. Now, sir, we define the conditions under which they may do business here and the conditions under which we may do business in their country.

Are we taking as good care of the Philippine islander's trade and commerce abroad as he could take of it were he put in a position to control his own affairs? Every person who has gone to the islands accredited by the Executive to either administer or inquire into the affairs of the Philippine Islands has said that it is absolutely fatal to the prosperity of those islands to insist upon a high tariff on their productions when offered in our markets. And why? Prior to the American conquest of the Philippines, as a result of prolonged colonial dependency, a community of language and religion, their trade was mostly with Spain, and what did not go to Spain went to other foreign countries, to the entire exclusion of the United States prior to our conquest of the country.

When it was announced that a great naval engagement had taken place in the harbor of Manila a great many of us had to go to the map and inform ourselves afresh as to the precise location of these islands. Probably in the whole history of our Government the Philippines had never been mentioned in our diplomatic correspondence or in Congressional debates prior to the Spanish-American war.

Hence we knew little or nothing about them. We were wholly alien to them—doubly alien to them on account of the intervening distance between their shores and ours, and because we had held no communion, political or commercial, with them. Suddenly we mount to sovereignty there. We seize the reins of power and government, deny to the natives any participation in their own affairs, and undertake to make their laws and administer their government. Thus we uprooted commercial relations that had existed for nearly four centuries—from the time of Spanish occupation down to the hour of the battle of Manila Harbor.

We proclaimed the policy of benevolent assimilation, and then, after having torn up by the roots well-established commercial relations, we proceeded to put up a stone wall to prevent the islanders from trading in our markets.

Mr. Chairman, I do not believe, and never will believe, that the process by which the present status of the Philippine Islands was reached was anything but a political blunder. The initiative in the White House, the proceedings in this House and in the Senate, the judgment of the Supreme Court affirming the constitutionality of taxes imposed upon the Filipinos which could not be imposed upon our own citizens were steps dictated by mistaken party managers and blindly followed by those in power from the White House to the Supreme Court Chamber.

It is for the Congress of the United States to say whether we shall continue to set up barriers against the trade of this conquered people while depriving them of the right to control their foreign relations. Why, the most difficult problem we have to deal with is the question of international exchanges. So difficult is it that internal differences divide the great parties as to what policy is best. So we have two schools of economists in the grand old party—the Republican party—on one side the standpatters and on the other those who follow the Blaine-McKinley scheme for reciprocity treaties. The Republican leaders can not agree as to what policy will best safeguard our international trade, yet they assume to do it for a struggling people, who have few things to sell, who can hope for but a small commerce at best. We cheerily settle similar questions for millions of people 10,000 miles away, never doubting that we can do the task better than they could do it for themselves.

And from what standpoint have we viewed the enactment of their laws? Have we studied their interests? Why, no. We have said if we admit their tobacco it will hurt the tobacco growers of Connecticut and Pennsylvania. If we admit their sugar we will hurt the sugar trust. If we admit any of their commodities, the richness of their soil and the productiveness of their climate and the cheapness of their labor will enable them to overwhelm our markets with commodities the production of which constitutes their chief industry. Not one word has been said about promoting the expansion of their trade. Much has been said about expanding our own. Who, I again inquire, has spoken for the Philippine islanders? Why they have not even the poor privilege of a Delegate on this floor to plead their cause.

Permit me to comment briefly upon another feature in this bill. About fifty-seven years ago a treaty between Great Britain and the Chinese Empire was entered into, permitting the importation of opium into China. The British Government forced this treaty upon China by a barbarous war. The Chinese sought to save their country from the evils of the opium habit, but in the interest of Indian producers opium and the products of opium were forced into the Chinese markets by British barbarity. Thus was brought about wholesale debauchery of the people of the Chinese Empire, to the end that a few thousand pounds a year that might be made by British traders. In a far greater degree the opium habit has been to orientals what the liquor habit has been to western countries—the overshadowing enemy of the race.

This bill puts in the hands of the Commission the power to exclude opium from the islands. The Senate has just passed a law taking out of the hands of the people of Oklahoma and the Indian Territory police regulation of the liquor traffic by placing in the statehood bill a clause forbidding the sale of liquor in the proposed new State for twenty-one years. Here we sanction a far more deadly evil existing in the Philippine Islands, knowing that the evil is growng and will continue to grow. The natives are bereft of power to prohibit opium joints, and you refuse to do so. You are going to leave it in the hands of the Commission, saying it shall have the power to suppress the evil. Why, it already has the power to suppress it. It had for years the general powers of a military government. This unlimited power was continued under the Philippine government bill. Your Philippine government has greater powers than the civil government of this country—the executive and legislative branches—because it may move without any constitutional limitations whatever, while we are amenable to the Constitution which strictly limits our powers.

Why not exclude the admission of opium to those islands? If it is right to attempt to control the liquor traffic in an American State for twenty-one years after it shall be given sovereignty, then would it not be right to do for the Filipinos what they can not do for themselves?

Mr. Chairman, something like $1,000 a day of revenue is realized by our provincial government over there from duties on opium. This bill will increase the sum. This money is used for the purpose of maintaining the magnificent retinue of our oriental potentates—and in paying the magnificent salaries received by these dignitaries. [Loud applause on the Democratc side.]

The CHAIRMAN. The time of the gentleman has expired.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. POWERS of Maine having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 17117) granting an increase of pension to George H. Brusstar.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 7157. An act to amend an act to provide for eliminating certain grade crossings on the line of the Baltimore and Potomac Railway Company in the city of Washington, D. C., and requiring said company to depress and elevate its tracks, and to enable it to relocate parts of its railroad therein, and for other purposes, approved February 12, 1901;

S. 7164. An act permitting the building of a railway bridge across White River, joining the township of Harrison, in Knox County, State of Indiana, and township of Washington, in Pike County, State of Indiana; and

S. 4782. An act for the conveyance of public lands belonging to the United States in the State of New York.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 17473) making appropriation for the support of the Army for the fiscal year ending June 30, 1906, Nos. 1, 10, and 11, disagreed to by the House of Representatives, had asked a further conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PROCTOR, Mr. SCOTT, and Mr. COCKRELL as the conferees on the part of the Senate.

PHILIPPINE TARIFF LAWS.

The committee resumed its session.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

When the nature of the tissue permits it, the thread shall always be counted on the obverse side of the stuff.

Mr. CLARK. Mr. Chairman, I should like to have about ten minutes to make a few remarks about the bill.

Mr. PAYNE. I ask unanimous consent that the gentleman have ten minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the gentleman from Missouri may proceed for ten minutes. Is there objection?

There was no objection.

Mr. CLARK. Mr. Chairman, because there has been so much uproar and disorder in the House, I will restate one or two facts that were stated by the able chairman of the Committee on Ways and Means [Mr. PAYNE] and by my distinguished friend from Texas [Mr. COOPER].

There is some confusion of mind as to these Philippine bills. There are two of them—the Curtis bill, which deals exclusively with imports from the Philippines into the United States, and the Payne bill, which we are now considering. The Payne bill has nothing whatever to do with imports from the Philippine Islands into the United States. It has to do entirely with the tariff on imports into the Philippine Islands for the purpose of raising revenue to conduct the Philippine government.

It does not affect the tobacco question, which my friend from Tennessee [Mr. GAINES] was inquiring about, and it in no wise affects the sugar question, about which a great many gentlemen in the House are so very solicitous.

My own judgment about the matter, after listening to the evidence in the Ways and Means Committee on both this bill and the Curtis bill, is that even the Curtis bill will in no way affect either the tobacco interests of the United States or the sugar interests, and I will give the reasons for that conclusion.

As stated by the gentleman from New York [Mr. PAYNE], the hemp business in the Philippine Islands has been demonstrated to be the most profitable business there. They have a monopoly on the hemp business. Consequently all the lands in the Philippine Islands that can be devoted to hemp will gradually be withdrawn from tobacco and sugar cultivation and devoted to the production of hemp.

The minority members of the Ways and Means Committee offered several amendments to this bill, all of them looking to getting our products into the Philippine Islands more advantageously than the products of other countries, so far as consistent with the treaty of Paris, the favored-nation clause of which will live until the 1st day of January, 1909.

This bill or some other bill on the subject of Philippine revenues ought to be passed. Mr. Secretary of War William H. Taft came before that committee and testified, as he always speaks, luminously and to the point. My judgment about it is that Mr. Secretary Taft knows more about the Philippine Islands and what is for their good than any other living man.

Mr. SULZER. I agree with the gentleman in regard to Judge Taft.

Mr. CLARK. The truth about it is that he is a man of immense learning and tremendous mental force.

Mr. GAINES of Tennessee. And a man of fine morals, too.

Mr. CLARK. Yes; a man of highest character in every way. I want to say this about this bill, that either in supporting the amendments to it or voting for the bill itself as amended in the last event, if I do, I do not recant a jot or tittle of the honest, radical, patriotic opposition that I have always entertained and asserted to this entire Philippine propaganda. I wish to Heaven we were rid of those islands now and for all time. It is my opinion that to retain them permanently is absolute idiocy. I would set them free this minute, if I could, chiefly for our own good. But we have them on hand, unfortunately, as I believe. How long we are going to have them on hand only God Almighty in His infinite wisdom knows. One day about two years ago, when the present Speaker of the House [Mr. CANNON], whom we all love, was in a hole and was trying to fight out, on the floor of the House, in the exuberance of his imagination and the fervor of his patriotism, declared that we would hold the Philippine Islands forever and a day. At the time I characterized his utterance as the most mournful one I ever heard in Congress. Not long ago, however, Secretary Taft, in testifying before the Ways and Means Committee on the Curtis bill, stated that it was his wish—I am not certain whether he undertook to say that it was also the wish of the Republican party or not—that the Philippine Islands might be permitted to set up for themselves as soon as they were measurably qualified to do it. On interrogation, he very frankly stated that he doubted very much whether the Filipinos could ever be educated into the fitness for self-government which we enjoy, but he was optimistic on the proposition that sooner or later they would be measurably fitted for self-government. He stated that perhaps the time might be beyond the life of this generation, which is a great deal more hopeful than the Speaker's statement, but that whenever that time arrived he wanted them to have their independence. I hail Secretary Taft as the prophet of a saner policy.

While I was ab initio, and am yet, utterly opposed to our undertaking to retain the Philippine Islands, yet as a practical legislator I want to do for these people and for ourselves the very best thing that can be done under the difficult circumstances which surround us. The Curtis bill provides that the rates shall be reduced from 75 per cent of the Dingley rates on imports from the Philippines into the United States, at which figure they now stand, to 25 per cent thereof. The minority of the committee have prepared a separate bill in the nature of a substitute and have prepared their report, in which they propose that the imports from the Philippine Islands, under the Curtis bill, shall come into this country free.

My good friend from Missouri [Mr. COCHRAN] attacks this bill on the ground of the opium trade. I wish to heaven that the use of opium could be banished entirely from the human race. It might perhaps be a good thing if there was never another drop of intoxicating liquor made or consumed, except for medicinal purposes, on the face of the earth. The same might be said as to cocaine. But I am expressing no opinion on these vexed and vexing subjects. But people have to look at these things from a practical standpoint. You can not shut opium entirely out of the Philippine Islands; that is out of the question. In the first place, they need it somewhat—so the doctors say—for medicine. In the second place, it is one of the easiest substances on the face of the earth to smuggle on account of the large money value you can smuggle in a small quantity of it.

So the committee thought that instead of Congress undertaking to shut opium out absolutely from the Philippines, it would be the better way to lodge the regulation of the opium trade, or the absolute exclusion of it from these islands, if deemed best, in the hands of the local government of the Philippines.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. CLARK. I ask unanimous consent that I may have time to conclude my remarks.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that he have time to conclude his remarks. Is there objection?

There was no objection.

Mr. CLARK. One other question has been suggested here, and that is as to why this bill does not meddle with the Chinese question. Mr. Chairman and gentlemen, there is no use for this bill and this committee to undertake to wrestle with the Chinese question in the Philippine Islands, for the all-sufficient reason that in a very carefully considered Chinese-exclusion bill which passed the last Congress the importation of Chinese into the Philippine Islands is as thoroughly forbidden and as jealously guarded as it is into the United States itself.

If I had my way about it, as long as we retain the Philippines, they should be put on a footing, with reference to taxation, with the rest of our territorial possessions; and they should raise their revenues for the performance of their local functions in the very same way that local revenues are raised in the United States. But the powers that be do not think that that is feasible. I confess that my knowledge of the details of Philippine life is very meager, and therefore I am persuaded, without abating any opinion that I have held, to be in favor of accepting in a general way the suggestions of Mr. Secretary Taft.

One word more. As far as the amendments tendered by the minority of the committee are concerned, we simply undertake, as far as we can, without running counter to the provisions of the treaty of Paris, to get our stuff into the Philippine Islands on better terms than other people can, and for that reason we have confined the most of our amendments to things most largely produced in the United States, and produced to the least extent in the foreign countries, and that is about all the difference, ex-

cept the main difference or contention between the two parties as to the treatment of these islands, that is to be found in this bill.

Whether or not the Ways and Means Committee will report the Curtis bill at this session of Congress I do not know. Time presses and the House and Senate are very busy. But I wish to assure all Members that have come in since I began to speak that this bill in no way treats of or interferes with the tariff that is levied on products of the Philippine Islands coming into the United States.

Mr. DRISCOLL. The gentleman has stated that this bill did not affect tobacco and sugar interests. I would like to know if it affects the interests of the manufacturers of agricultural implements—whether the schedules are the same?

Mr. PAYNE. It reduces it some.

Mr. DRISCOLL. How much?

Mr. PAYNE. Well, it was 20 cents, I think, or about that.

Mr. CLARK. It does not affect that interest unfavorably.

Mr. SULZER. I would like to ask if Secretary Taft has approved the provisions of this bill now before the House?

Mr. CLARK. Secretary Taft practically approves the bill before the House. My understanding of the history of this bill is that we were furnished a bill prepared largely under the guidance and assistance of Secretary Taft. The details of it in some respects were not exactly what they ought to have been, and upon later information the chairman of the Ways and Means Committee [Mr. PAYNE], with the assistance of the Republican members, prepared this bill, and this is in the nature of a substitute for the original bill.

Mr. PAYNE. If the gentleman will pardon me, that is not exactly correct. This bill is in substance the bill prepared by the Philippine Commission and the Secretary of War, after an investigation of about a year. This is a substitute, because in the original draft there were many mistakes of punctuation, and then there were some amendments.

Mr. GAINES of Tennessee. I would like to ask the gentleman if Governor Wright had anything to do with the preparation of this bill?

Mr. PAYNE. Certainly he did.

Mr. SULZER. I want to ask the gentleman from Missouri this question: Under the Spanish-American treaty is it not a fact that we can not pass tariff laws regarding the Philippine Islands as to imports or exports from the Philippine Islands to the United States and the United States to the Philippines without giving every other country the same advantage under the treaty?

Mr. CLARK. No; that applies to the imports into the Philippines.

Mr. SULZER. Only to the imports?

Mr. CLARK. Yes; that has nothing to do with the imports from the Philippines to the United States.

Mr. SULZER. Then, as a matter of fact, it would be impossible to abolish the tariff between the Philippines and the United States until the expiration of that clause of the treaty?

Mr. CLARK. Oh, no; it is not impossible to abolish it, but if we do abolish it, then Spain gets the same advantage that we do.

Mr. SULZER. Only Spain? Do I understand only Spain?

Mr. WATSON. Spain only.

Mr. CLARK. Spain, under the treaty of Paris, stands on exactly the same plane with reference to importations into the Philippines that we do until the 1st day of January, 1909.

Mr. WATSON. That is right.

Mr. GAINES of Tennessee. That is by treaty, is it not?

Mr. CLARK. That is the treaty of Paris.

Mr. SULZER. That is the point I wanted to have the House distinctly understand. As a matter of fact, I am in favor of abolishing all tariff taxes between the Philippines and the United States and treating the Philippines, as long as we hold possession of the islands, just the same as we now treat Hawaii, Porto Rico, and Alaska. We should have practically free trade between this country and the Philippine Islands.

Mr. CLARK. I would like to do that, too, but if we can not do what we want to do, then we have to do the best we can, and that is what we are trying to do in this bill. [Applause.]

Mr. COCHRAN of Missouri. Mr. Chairman, I ask unanimous consent to address the House for five minutes.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to address the House for five minutes. Is there objection?

Mr. PAYNE. Mr. Chairman, the gentleman can address the House for five minutes on an amendment. I am going to say that I shall object to unanimous consent from this time on. The gentleman can move to strike out the last word and address the House for five minutes.

Mr. COCHRAN of Missouri. Mr. Chairman, I fully sympathize with what my colleague, the gentleman from Missouri [Mr. CLARK], has said concerning this bill, but it should be remembered that the imposition of taxes is the power oftenest abused by sovereigns. The unjust imposition of taxes has probably occasioned most of the world's strife. My object in addressing this House before was to call attention to the fact that in the Philippines we had usurped this prerogative and taken it away from the people who pay the taxes. I insisted that when we seized that right we be accountable to the people for the manner in which we exercised it. I contended that hitherto the imposition of taxes has been controlled by only one motive—prevention of the slightest injury to American commerce through our exchanges with the Philippine Islands—and that no pretense of promoting Philippine commerce had entered into the matter. Then I directed attention to the opium tax, which cuts a conspicuous figure in this tax law.

The opium trade in the Orient has a history. The opium habit is the curse of the orientals. Are we to promote its ravages? Why, sir, we know that vice has increased continually under our administration. When our soldiery landed there, our newspapers repeatedly said that the Philippine soldiers were anxious to imitate everything except their vices. We were told that the Filipinos were an abstemious people; that drunkenness was practically unknown among them. Later we have been told that the retail liquor dealers in Manila have enormously increased in number, that drunkenness is now common, and that opium joints have multiplied tenfold since we occupied the islands. In the face of this disgraceful state of affairs we raise revenue by taxing "opium for smoking and other purposes."

Mr. Chairman, I do not believe it is possible for any kind of legislation, except that based upon neighborhood conditions, to effectively control the liquor traffic. I do not believe that prohibition is a remedy for the liquor evil unless a particular neighborhood wants prohibition. Possibly the same argument might be used as to the opium traffic in the Philippines. But do we leave any neighborhood in the Philippine Islands at liberty to suppress the opium traffic? No. We say to the Commission, "You may do it." I believe in home rule—in the town meeting, the unit of democratic government. In the Philippine Islands we deprive the people of local self-control.

Mr. CLARK. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield?

Mr. COCHRAN of Missouri. Yes.

Mr. CLARK. I would ask the gentleman if he has read this proviso, on page 2 of the report, that gives to the Philippine Commission or legislature absolute power over this traffic?

Mr. COCHRAN of Missouri. Yes, and I commented on that in my opening remarks and said this, that the Philippine Commission has more power than the Congress of the United States, for no constitution limits its power. It can pass laws affecting those people that we could not pass affecting our people. It could go to lengths in suppressing or permitting vices that we may not dream of going to.

Mr. GAINES of Tennessee. Who uses this opium besides the Chinese and Japanese?

Mr. COCHRAN of Missouri. Our experience in this country is that where the opium den has been introduced into our cities—for instance, in the city of Washington—all classes of people patronize it. It is a habit that will grow in any country. It will grow more rapidly, perhaps, in an oriental country. I believe that introduced into the Philippine Islands and fostered by taxation, which is practically a license, it will become a national vice inside of two decades.

The Clerk read as follows:

In exceptional cases, where, after these operations, the ascertainment of the number of threads remains doubtful, a sufficient part of the textiles shall be unraveled.

Mr. GAINES of Tennessee. Mr. Chairman, I move to strike out the last word. I want to say just a word to my friend from Missouri [Mr. COCHRAN], and that is that the Japanese and Chinese are the only people in the Philippine Islands, at least when I was over there, who use this opium. The Filipino is an extremely moral man and the women are extremely moral, so it is not going to hurt anybody but the people we have the right to shut out from going there—the Japanese and the Chinese.

Mr. COCHRAN of Missouri. Mr. Chairman, if these people are so moral and so temperate, then this hideous vice, which has been legalized and introduced into their midst by the United States Government, can not meet with their approbation, and if they had the powers of government in their own hands they would not permit opium to be imported except for medical purposes.

No highly moral community would invoke the horrors of such a trade.

Mr. GAINES of Tennessee. Now, just a word. Opium has been imported into the Philippine Islands time out of mind, and the point which I was trying to call to the attention of my genial friend from Missouri is that the Filipino is by nature so moral and by habit so moral that although they have been tempted by that vice of the Japanese and Chinese for thousands of years, yet they have not been corrupted. I say as much because they are entitled to have that much said in their behalf. As to the point that we are going to leave this opium matter to the regulation of the Philippine Commission, I think possibly it is wise, because I have the greatest confidence in Governor Wright and that he is going to have everything right about him if possible, but the fact is whether the opium comes there or not I do not believe it will ever corrupt the Filipinos, because they never have been corrupted by it.

The CHAIRMAN. The pro forma amendment will be considered as withdrawn.

The Clerk read as follows:

3. Roulette wheels, gambling layouts, dealing boxes, and all other machines, apparatus, or mechanical devices used in gambling, or used in the distribution of money, cigars, or other articles, when such distribution is dependent upon lot or chance.

Mr. HITCHCOCK. Mr. Chairman, I offer the following amendment, to be inserted on page 16 of paragraph 3.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert on page 16, after paragraph 3, section 6, the following:

"4. Opium, both crude and manufactured, unless the importer shall produce a special authorization for landing issued to him by the civil governor, which shall only be issued where the drug is required for medicinal purposes, in which case its importation shall be free of duty, and its sale, except for medicinal purposes, punishable as a misdemeanor."

Mr. HITCHCOCK. Mr. Chairman, if it is desirable in this bill to have the importation of any articles prohibited, it seems to me that the experience of oriental people makes it above all important that the importation of opium, except for medicinal purposes, into the Philippine Islands should be prohibited. The chairman of this committee has well said that this is the most important provision in this bill. It is evident that the committee in introducing this bill seeks above all things to raise revenue. But I put the queston to the House and to the country, Should the United States, for the purpose of raising a revenue, estimated at a thousand dollars a day, deliberately proceed to poison the bodies and destroy the morals of these people in the Philippine Islands, who stand to us in the relation of ward to guardian?

Mr. Chairman, in 1848 when Great Britain sent her war ships to threaten and instructed her diplomats to insist that the Empire of China should permit the importation of this destructive drug in order that the trade of India and the profits of a few British merchants might be increased, the whole civilized world was outraged that a civilized nation should undertake to impose on the old Empire of China such a blight; and now, in this bill, for a similar reason, for the avowed and mercenary purpose of revenue and revenue only, it is proposed that our great nation shall deliberately authorize the importation of this drug in enormous quantities for smoking purposes.

It seems to me, Mr. Chairman, that if the duty of a civilized nation to a helpless ward of this sort ever required the exercise of paternal care, it is required in this particular case. We should not for a few thousand dollars of revenue spread opium depravity.

Mr. CLARK. I would like to ask my friend from Nebraska [Mr. HITCHCOCK] a question.

The CHAIRMAN. Does the gentleman from Nebraska [Mr. HITCHCOCK] yield to the gentleman from Missouri [Mr. CLARK]?

Mr. HITCHCOCK. Yes, sir.

Mr. CLARK. Are there not a great many very good people in the United States who object to the internal-revenue tax on whisky and beer on the theory that that encourages the traffic or consumption of it in the United States?

Mr. HITCHCOCK. I think, Mr. Chairman, that question does not suggest a parallel case. There is, or at least there is claimed to be, in the use of whisky and beer in moderation a possible benefit to humanity. There is not in the use of opium in any quantity the slightest possible benefit. Opium smoking has nothing but an evil effect on the bodies and minds of those who indulge in the vice. This applies to men of our own race; but if it is a serious detriment to the white man it is infinitely worse with inferior and effete races. It is peculiarly and essentially and characteristically the vice of the Oriental; and now the Congress of the United States is invited, because of a few paltry dollars needed in defraying the expense of government of the Philippine Islands, to authorize and encourage the importation of this vicious drug. I say, Mr. Chairman, that this Congress should take a position against such an outrage on humanity and should put opium upon the prohibitive list.

Mr. PAYNE. Mr. Chairman, the use of opium has decreased in the Philippine Islands from a million pounds in 1901 to 600,000 pounds in the last fiscal year under the provisions of law already in force. Now, there are in the Philippine Islands somewhere near 100,000 Chinese, and all of these Chinamen own a shop. They run the mercantile business, and they have run the Philippine women and the Philippine men out of business. They get a little shanty near a Filipino, and the first thing the Filipino knows his trade is gone. The Chinaman, who is a natural trader, gets the business and the Filipino goes out of the business. We all know their propensity for opium. They will have it if they can get it. This Commission if the gentleman will excuse me, know these Chinamen, know these circumstances, know what they have to deal with, and they have gone over this question and have given it a great deal of patient investigation. A very able report has been made by them, and they wish the matter left in their own hands for the next three years in order that they may deal with it. The provisions they propose in this bill will be found on page 43. It is as follows:

80. Opium: (a) Crude, N. W., kilo, $4; (b) the same manufactured or prepared for smoking or other purposes, N. W., kilo, $5: *Provided, however,* That the Philippine Commission or any subsequent Philippine legislature shall have the power to enact legislation to prohibit absolutely the importation or sale of opium, or to limit or restrict its importation and sale, or adopt such other measures as may be required for the suppression of the evils resulting from the sale and use of the drug.

We give the whole power to the Philippine Commission to deal with this question. Of course we put a duty on it. We put a duty on opium coming to the United States. We have always done that, we probably always will do that, and we put a duty on the opium coming to these islands, and we give the Commission power to stop this thing when they can. They are there on the grounds, and I am willing to trust to their judgment rather than to pass a fast and loose law now, or a fast law which will prohibit the sale from now on of opium in the islands.

Mr. HITCHCOCK. Mr. Chairman, I will say in reply, if I may be indulged, that the gentleman's argument does not appeal to me. Can it be contended that after several years of indulgence in this vice the use of opium will be more easily regulated or abolished than at the present time? Can it be contended that these 100,000 Chinese now in the Philippine Islands are the only ones who consume this vast quantity of opium which last year yielded to the government a revenue of $1,000 a day? Why, the gentleman from New York [Mr. PAYNE] admitted in his opening statement that the opium evil was growing in the Philippine Islands. He admitted that even under Spanish rule, with all its benighted laws, the importation of opium was prohibited. Now, the United States, an enlightened nation, succeeding that Spanish Government, and presumably intending to give the Filipino a better civilization, have yielded to mercenary temptations. We are now deliberately proposing for the paltry revenue we derive from it, the importation of this opium, the curse and blight of the oriental.

Mr. Chairman, the committee report on this bill itself admits the spread of this vice in the islands. It admits the evil which opium brings. How can any man possibly maintain that this evil and this opium vice if permitted to grow can be prohibited more effectively three years from now? Now is the time to stop the evil; now is the time to check its growth, before the habit of opium smoking and opium eating becomes fixed with those Filipinos, who are only entering upon it at the present time.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Nebraska.

The question was taken; and the Chairman announced that the noes seemed to have it.

Mr. HITCHCOCK. I would like to have a division, Mr. Chairman.

The committee divided; and there were—ayes 39, noes 49.

Mr. HITCHCOCK. I call attention to the fact and raise the point of no quorum.

The CHAIRMAN. The gentleman raises the point of no quorum. The Chair will count. [After counting.] One hundred and ten present; a quorum; the noes have it, and the amendment is rejected.

The Clerk read as follows:

Provided, however, That the Philippine Commission or any subsequent Philippine legislature shall have the power to enact legislation to prohibit absolutely the importation or sale of opium, or to limit or restrict its importation and sale, or adopt such other measures as may

be required for the suppression of the evils resulting from the sale and use of the drug.

Mr. SMITH of Iowa. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Add, at end of line 24, page 43:
"But no license system shall be established with a view to the derivation of revenue from the traffic in said drug, and no license fees or taxes, except duties on imports, shall in any event be higher than deemed necessary to cover the expenses of administration of any legislation licensing the traffic in said drug."

Mr. SMITH of Iowa. Mr. Chairman, it seems to me that this amendment——

Mr. PAYNE. I do not see any objection to that amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

112. Raw cotton, with or without seed, and cotton waste N. W., 100 kilos, 50 cents.

Mr. COOPER of Texas. Mr. Chairman, I move to strike out, on page 52, lines 9 and 10, which read, "raw cotton, with or without seed, and cotton waste N. W., 100 kilos, 50 cents."

The Clerk read as follows:

Strike out lines 9 and 10, "Raw cotton, with or without seed, and cotton waste N. W., 100 kilos, 50 cents."

Mr. COOPER of Texas. Mr. Chairman, I call the attention of the committee to the fact that this paragraph enacts a tax upon one of the greatest agricultural products of this country. We are seeking the "open door" now in China and elsewhere for cotton and the products of cotton, and it is not fair to the agricultural interests of this country that a tax should be levied upon a product of this character, and that by law we should discriminate in favor of other countries and against our own country. That tax ought to be removed from this bill.

Mr. PAYNE. Mr. Chairman, this tax leaves cotton to be imported from this country and Egypt on equal terms. It is less than a quarter of a cent a pound. This amount will be a tax for the purpose of getting a little revenue out of it, and it does not hurt the industries of the United States.

Mr. COOPER of Texas. I do not clearly understand the gentleman, Mr. Chairman.

I understand that about $50,000 worth of cotton was exported from the United States into the Philippine Islands last year, and that none was imported into the islands from Spain, but from other countries there was something like $50,000 worth of cotton imported into the Philippines. Does the gentleman think that a tax ought to be levied on the cotton exported from the United States?

Mr. PAYNE. The gentleman's amendment leaves it on the same footing as other cotton from all other countries. It produces a little revenue, and does not hurt anything.

Mr. COOPER of Texas. Then I will amend my amendment by making an exemption of the cotton exported from the United States.

Mr. PAYNE. Now, getting the amendment in that shape, it presents another question. It proposes to give a preference to the United States over other countries. As is well known, by the treaty of Paris, up to January, 1909, we are compelled to give the same to Spain and to any other country in the world. If we go to work on cotton and go through the other schedules of this bill, and give free trade to the United States and free trade to Spain, that would result in great complication, because other countries, of course, would find fault with our policy.

But, worse than all, we are imposing this upon the Philippine Islands and requiring them to buy their goods from us, putting a tariff on some other countries, while on the goods coming from the Philippines to the United States there is very little concession made.

The CHAIRMAN. Does the gentleman from Texas modify his amendment?

Mr. COOPER of Texas. I offer to amend my amendment so as to meet the suggestion of the gentleman from New York; but the gentleman from North Carolina has an amendment covering that item, and I ask that his amendment be read.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

At the end of line 10, page 53, insert:
"*Provided*, This tax shall not apply to cotton imported from the United States."

Mr. WEBB. And also add to the amendment the words "or Spain," so as to meet the objection of the distinguished chairman of the Ways and Means Committee [Mr. PAYNE].

The CHAIRMAN. Does the Chair understand that the gentleman from Texas [Mr. COOPER] withdraws his amendment?

Mr. COOPER of Texas. I withdraw my amendment, because I prefer the amendment offered by the gentleman from North Carolina [Mr. WEBB].

The CHAIRMAN. Did the Chair understand that the gentleman from North Carolina wishes to modify his amendment?

Mr. WEBB. Simply to add, after the words "United States," the words "or Spain," so as to comply with the treaty of Paris.

The CHAIRMAN. The Clerk will report the amendment as finally suggested.

The Clerk read as follows:

At the end of line 10, page 52, add:
"*Provided*, This tax shall not apply to cotton imported from the United States or Spain."

Mr. WEBB. Mr. Chairman, I can see no objection to adopting that amendment. It is within the treaty of Paris. It will keep this House and Congress from acting so as to prevent the sale of American cotton in the Philippines without tariff, hindrance, or impediment. As we all know, cotton is bringing a low price to-day. It is the principal staple of the South, and we will almost perish from the face of the earth unless we have a foreign market for our cotton and cotton manufactures. It is not right for this House to coop up and hedge about the American cotton grower so as to confine him to a few markets. We control the Philippines. They are our territory. We are now legislating for them. Why not let this great American staple go in there free? It is about the only crumb we can throw to the southern cotton grower, who bears many heavy tariff burdens now, and I insist that this House should adopt that amendment and give the product of their sweat an open market. It is not very much, but it is something, and may help the southern cotton grower a good deal, by encouraging the sale of cotton there and by increasing the demand for this great staple, and thereby increase the price thereof.

Mr. PAYNE. Of course, Mr. Chairman, if this amendment is adopted, we should go through the bill and amend it as to every article exported from the United States. There is no use in picking out one item, because that item happens to be grown in the gentleman's section of the country, and leaving all these other articles to pay this duty. We can not afford to do it now in the present condition of the Philippine revenues. We can not afford to take away from them the income that they receive from articles going from the United States to the Philippine Islands.

I hope the amendment will not be agreed to.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from North Carolina [Mr. WEBB].

The question being taken, the Chairman announced that the noes appeared to have it.

Mr. COOPER of Texas. Division, Mr. Chairman.

The committee divided; and there were—ayes 56, noes 58.

Mr. WEBB. I ask for tellers, Mr. Chairman.

Tellers were ordered; and the Chairman appointed Mr. PAYNE and Mr. WEBB.

The committee again divided.

The tellers having announced several additions to the affirmative and negative votes,

Mr. ROBINSON of Indiana said: Mr. Chairman, I call for the regular order.

The CHAIRMAN. The Chair would say that this vote has become so confused that it is impossible to announce the exact result. The vote will therefore be taken again.

The committee again divided; and the tellers reported—ayes 88, noes 98.

The CHAIRMAN. The tellers announce—ayes 88, noes 98. Accordingly the amendment is rejected.

Mr. COOPER of Texas. Mr. Chairman, was there any confusion with respect to the last vote?

The CHAIRMAN. There was no confusion. The vote was very clear.

Mr. COOPER of Texas. Was it as clear as the former vote?

The CHAIRMAN. The Chair will state to the gentleman that the amendment was lost on the former vote, as returned by the Clerk.

Mr. BENTON. Why didn't you dare announce it then?

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

113. Yarn in hanks: (*a*) Bleached or unbleached, N. W., kilo, 10 cents.

Mr. WEBB. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

At the end of line 5, page 53, add:
"This act shall not apply to yarn imported from the United States."

Mr. WEBB. I wish also to add the words "or Spain," so as to comply with the treaty of Paris.

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

At the end of line 5, page 53, add:

"This act shall not apply to yarn imported from the United States or Spain."

Mr. WEBB. Now, Mr. Chairman, that amendment might be added to all the sections on that page and on the succeeding page. If there is any one great industry in the United States which needs the effect of the amendment it is the manufacture of cotton. Everything should be done by Congress that is possible to encourage its manufacture and sale in all ports of the world. About 60 per cent of the cotton raised in the United States is exported. This cotton should be manufactured here in the United States. Our cotton mills would stop if it were not for the export of our textile manufactures from our cotton; but this bill puts us in the position of turning our foreign markets, controlled by us, against ourselves, our cotton manufactures, and keeping out of foreign markets products that we ourselves manufacture. Some of those markets are dependent on the cotton manufacturers of this country, especially in the coarser goods. In 1903 $97,647 was paid as tariff duties on cotton and cotton manufactures from the United States to the Philippine Islands. Other countries paid about one and a half millions of dollars tariff duties on this class of products. Adopt this amendment and our American manufacturers will at once increase their exports there enormously.

I see in this morning's paper a report of the fact that a distinguished delegation of southern manufacturers, representing the southern cotton growers and manufacturers, and for that matter, representing cotton manufacturers all over the United States, assembled here and called upon the President, and besought him to do what lay in his power to open foreign ports to American manufacturers of cotton goods, because there is not now sufficient demand for these goods.

Mr. Chairman, there should be no overproduction of cotton and cotton goods so long as there are millions of people in need of clothing, and if this Republic will pursue the proper policy we will not again hear of overproduction. It is underconsumption that ails us.

The Filipinos are now our wards. We profess to be legislating for them and in their interest. We are told by Republican leaders that the islands are full of people who do not wear clothes. Let us take the tariff off cotton textiles and thus encourage and promote their wearing clothes and at the same time help the home manufacturer sell his goods to a people that needs them. By this bill you tax their wearing apparel and thus discourage rather than promote their civilization.

He promised that he would aid them in every way he could. The best way to do that, Mr. Chairman, is to take the tariff off this class of manufactured goods right here to-day in the shadow of the White House where sits the President who promised this aid to the southern cotton mills and growers. We have an opportunity to carry out what he promised them and what they sorely need, and that is to take the tariff off American textile manufactures that go to the Philippine Islands. This will make a good start in the right direction. We can do that much and show our friendship for the great cotton manufacturing industries of this country.

Everyone knows, Mr. Chairman, that if it were not for the foreign buyers, the open, free markets, both the northern and the southern cotton mills of the United States would stop. Here we are putting in this bill a tax excluding from a foreign market by a tariff burden, which we ourselves control, one of the great products which this country manufactures. I insist that this House should take the tariff from this class of manufactured goods, manufactured in this country, and let them enter the Philippines free. In simple justice to a great industry that has been languishing for several years we ought to do this. There are many mills in the North and the South that for the last four years have been idle most of the time; many have paid no dividends on account of depression in this industry. We are told that thousands of mill employees have been idle in Fall River; soup houses have been established, and charitable organizations have taken care of many of them.

Here is an opportunity of curing some of these evils by making a stronger demand for our goods. Why should we ourselves close up a foreign market that we control? We ought at least to go as far as we can and take off the tariff on this manufactured class of goods, and thus do what we can for the great section of the country—North and South—that manufactures the cotton, and say that that which goes to our own territory shall at least go free. Justice and common sense demand it; fairness demands it; and I ask this House that you strike out the tariff on the manufactured products, especially of cotton yarn, and let them go into the Philippine Islands free, and build up a great market for our manufactures there. If you will do that, and if we can secure ample foreign markets, the cotton industries in this country will flourish like the green bay tree. [Applause.]

Mr. PAYNE was recognized.

Mr. GOLDFOGLE. Mr. Chairman, I was about to suggest to the gentleman who has just taken his seat——

The CHAIRMAN. The Chair understood that the gentleman from New York rose to ask a question and speak in the time of the gentleman from North Carolina, but the time of the gentleman from North Carolina has expired.

Mr. GOLDFOGLE. I move to strike out the last word.

The CHAIRMAN. The gentleman from New York [Mr. PAYNE] was recognized.

Mr. PAYNE. Mr. Chairman, this is a similar amendment to the one which the committee has just voted down. I do not want to take the time of the committee in discussing it, for I want to get through with this bill. Of course the gentleman from North Carolina is interested in this matter, and it is natural that his interests should lead him to offer this amendment. But if this amendment is agreed to and gets into the bill, it will make it a one-sided bill. There are other items here that we have passed and to which an amendment would be just as proper as the paragraph to which this amendment is offered by the gentleman from North Carolina. It makes it a one-sided bill, and disturbs the whole relations between the United States and the Philippine Islands, and therefore I hope that the amendment will be voted down.

Mr. WEBB. I want to suggest to the gentleman that he says that I am speaking from self-interest; but does not the gentleman think that if the amendment is adopted that I have offered, it will also help the interests in Fall River, Mass.?

Mr. PAYNE. I don't know whether it will or not. The coarse grades of manufactured cotton are mostly in the South, and I do not think it would particularly interest or help Fall River, Mass. But, even if it should, it doesn't make any difference; it could not and ought not to go into this bill until 1909.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Carolina.

The question was taken; and on a division (demanded by Mr. WEBB) there were—ayes 73, noes 85.

Mr. WEBB. Tellers, Mr. Chairman.

Tellers were ordered; and the Chair appointed as tellers Mr. PAYNE and Mr. WEBB.

The committee again divided; and the tellers reported—ayes 95, noes 99.

So the amendment was rejected.

The Clerk read as follows:

245. Agricultural machinery and apparatus, machinery and apparatus for pile driving, dredging, hoisting, and making or repairing roads, for refrigerating and ice making, sawmill machinery, machinery and apparatus for extracting vegetable oils, and for converting the same into other products, for making sugar, for preparing rice, hemp, and other vegetable products of the islands for the markets, and detached parts therefor, also traction and portable engines and their boilers adapted to and imported for and with rice-thrashing machines, and steam plows, 5 per cent ad valorem.

Mr. COOPER of Texas. Mr. Chairman, in section 245, on page 93, line 15, I move to strike out "5 per cent ad valorem" and insert in lieu thereof the words "free of duty."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 93, line 15, strike out the words "5 per cent ad valorem" and insert in lieu thereof the words "free of duty."

Mr. COOPER of Texas. Mr. Chairman, this would put all articles manufactured in this country of the character mentioned in that paragraph on the free list. I do not care to argue it. I merely state it to the committee so that Members can understand that it is agricultural machinery and apparatus, machinery for pile driving and to be used in the manufacture of sugar, rice, and other products.

Mr. PAYNE. Mr. Chairman, this is a great reduction from the present law, as the House will see. It is only 5 per cent, an exceedingly small revenue duty. They need the revenue. It is not going to make much difference with the manufacturers of machinery in Texas or anywhere else whether it is 5 per cent or whether it is nothing. I hope we will have a vote on the amendment, and I hope we will get along as fast as possible.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Texas.

The question was taken; and on a division (demanded by Mr. HEFLIN) there were—ayes 58, noes 75.

So the amendment was rejected.

The Clerk read as follows:

246. Locomotives, including tenders, and traction and portable engines complete, and detached parts therefor, 15 per cent ad valorem.

Mr. COOPER of Texas. Mr. Chairman, on page 93, line 22, paragraph 246, I offer the following amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Line 22, page 93, strike out the words "15 per cent ad valorem" and insert in lieu thereof the words "free of duty."

Mr. COOPER of Texas. Mr. Chairman, this applies to the tax imposed on locomotives, including tenders and traction and portable engines.

Mr. PAYNE. Mr. Chairman, the duty is a very small one, and is for revenue purposes. Let us have a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken; and the amendment was rejected.

The Clerk read as follows:

270. Hams, bacon, and other meats, smoked or cured, also sausages not preserved in cans, N. W., 100 kilos, $3.

Mr. COOPER of Texas. Mr. Chairman, I desire to offer an amendment here; and in order to expedite the consideration of this bill, I shall offer three amendments at once, with the consent of the gentleman from New York.

Mr. PAYNE. Mr. Chairman, I have no objection to that.

Mr. COOPER of Texas. Mr. Chairman, on page 79, paragraph 270, a tax is placed upon hams, bacon, and other meats of $3 per 100 kilos. I move to strike out the words "100 kilos, $3," in lines 20 and 21, and insert in lieu thereof the words "free of duty."

On page 98 lard is taxed at $2 per 100 kilos. I move to strike out the words "100 kilos, $2," in lines 1 and 2, page 98, and insert in lieu thereof the words "free of duty."

On page 98, paragraph 272, in lines 3 and 4, I move to strike out the words "100 kilos, $1.60" and insert in lieu thereof the words "free of duty."

Mr. Chairman, the adoption of this amendment would put hog products and meats, lard, animal as well as vegetable, upon the free list. This would include cotton-seed oil, and I think it all ought to go on the free list.

Mr. PAYNE. Mr. Chairman, the duty imposed in paragraph 270 of $3 per 100 kilos is a little over a cent a pound on hams and other meats. In paragraph 271 the duty is $2 on 100 kilos of lard. That is a little less than a cent a pound. In vegetable lard and all other imitations of lard, including cotton-seed oil, the duty is $1.60 per 100 kilos. That is just about three-quarters of a cent a pound. Now, this is a revenue duty purely, and I hope that the amendments will be voted down.

The CHAIRMAN. Does the Chair understand that the gentleman from Texas requires a separate vote on each of these amendments?

Mr. COOPER of Texas. Oh, no; I make all three amendments at this time and ask that they be considered as one.

The CHAIRMAN. Without objection, then, the question is upon the three amendments offered by the gentleman from Texas.

The question was taken; and the amendments were rejected.

The Clerk read as follows:

GROUP 2.—GRAIN, DRIED FRUIT, AND VEGETABLES, AND PREPARATIONS OF THE SAME.

276. Rice: Until May 1, 1905: (*a*) Unhusked, G. W., 100 kilos, 40 cents; (*b*) husked, G. W., 100 kilos, 50 cents; (*c*) flour, G. W., 100 kilos, $1.50.

Mr. COOPER of Texas. Mr. Chairman——

Mr. PAYNE. I suggest the gentleman wait until the Clerk reads the whole paragraph, and then he can offer his amendment.

Mr. COOPER of Texas. How is that?

Mr. PAYNE. Suppose you allow the Clerk to read the rest of the paragraph, and then offer your amendment. I have no objection.

Mr. COOPER of Texas. I have no objection to that.

The Clerk read as follows:

On May 1, 1905, and until January 1, 1907: (*a*) Unhusked, G. W., 100 kilos, 60 cents; (*b*) husked, G. W., 100 kilos, 75 cents; (*c*) flour, G. W., 100 kilos, $1.75.

On and after January 1, 1907: (a) Unhusked, G. W., 100 kilos, 80 cents; (b) unhusked, G. W., 100 kilos, $1; (c) flour, G. W., 100 kilos, $2: *Provided, however*, That the Philippine Commission may, in its discretion, continue in force the rate of duty first above stated until, in its opinion, the conditions in the Philippine Islands may warrant the higher rates herein provided.

Mr. COOPER of Texas. Mr. Chairman, I move to strike out the entire paragraph.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out, beginning on line 19, page 98, down to and including line 16, page 99.

Mr. PUJO. Mr. Chairman, I am in hearty accord with the amendment offered by the gentleman from Texas [Mr. COOPER], which seems to be founded on good sense and sound business judgment, and should be adopted by this House.

If the members of the Ways and Means Committee had looked into the rice industry of the United States, they would have found, after a very short examination, that it is absolutely necessary that the product of this country should be permitted to enter the Philippine Islands free of duty, and that the present tariff tax on rice from the United States into the archipelago results in discrimination against the people of our States engaged in that industry.

Mr. Chairman, when Porto Rico was annexed in 1900 there was very little rice exported from the United States to that country. The moment the duty was removed and our surplus could be sent there the rice trade developed, and in the fiscal year ending June 30, 1904, we sold to Porto Rico, 64,340,385 pounds of rice of the value of $2,326,127.

Following, I incorporate a statement from the Department of Commerce and Labor, showing the gradual development of the rice industry with Porto Rico, covering the last seven years.

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF STATISTICS,
Washington, February 23, 1905.

Hon. A. P. PUJO,
House of Representatives, Washington, D. C.

SIR: I am in receipt of your letter of the 22d instant asking for imports and exports of rice between the United States and the Philippine Islands during the years from 1900 to 1903, inclusive; also the imports and exports of rice between the United States and Porto Rico from 1898 to 1903, inclusive. I reply as follows:

"PHILIPPINE ISLANDS.

"With respect to these islands during the period named, there were no imports of rice therefrom, but during the year ending June 30, 1902, 14,438 pounds of foreign rice, value $243, were exported to the Philippines; none exported for other years of period.

"PORTO RICO.

"During the period named in your letter the imports and exports of rice between the United States and Porto Rico have been as follows:

IMPORTS.

Year ending June 30—	Pounds.	Value.
1898	218	$8

EXPORTS.

Year ending June 30—	Domestic.		Foreign.	
	Pounds.	Value.	Pounds.	Value.
1898			1,100	$20
1899	2,754	$144	183,703	3,800
1900	4,852,008	153,882	8,175,876	168,107
1901	38,471,880	1,374,168		
1902	50,520,750	1,803,065		
1903	60,583,001	2,255,429		
1904	64,340,385	2,326,127	30,846	887

Very truly, yours,

O. P. AUSTIN, *Chief of Bureau.*

There can be no doubt from the growth and development of the trade in this article of food between the two countries that in less than a decade Porto Rico will be one of the best rice markets accessible to our people.

Previous to the adoption of the Cuban reciprocity treaty practically no rice was exported to the island, but since that time the trade is gradually developing because of the fact that rice from the United States is permitted to be shipped to Cuba at a rate of duty 40 per cent less than that imposed upon the same product from any other country.

For the fiscal year ending June 30, 1904, we sold to Cuba 698,938 pounds of domestic rice of the value of $19,985, but we did not sell any to the Philippine Islands, nor did we receive any from that country, although the people of the archipelago consume annually about $15,000,000 worth of rice.

My contention is that the Philippine tariff tax imposed by the military government was discriminative against this American industry to the extent of excluding the American rice grower from competing in that market. In support of this statement I insert the following letter:

WASHINGTON, *February 8, 1905.*

Hon. A. P. PUJO, M. C.,
House of Representatives, Washington, D. C.

SIR: Your favor of the 7th instant asking for information with respect to imports and exports of rice from and to Cuba, Porto Rico, and the Philippine Islands is received, and I answer your questions as follows:

First. The rice imports from Porto Rico during the fiscal year ending June 30, 1904.

Second. Exportations of rice from the United States to Porto Rico for the same period of time.

Answer. Since Porto Rico became a customs district of the United States we have no figures of imports from or exports to that island, but only a record of shipments. It does not appear from the accounts of the Bureau of Statistics of this Department that there were any shipments of rice from Porto Rico to the United States during the fiscal year 1904. During that period the shipments of rice from the United States to Porto Rico were as follows:

Shipments of rice: Domestic, 64,340,385 pounds; value, $2,326,127. Foreign, 30,846 pounds; value, $887.

Third. Importations of rice from the Philippine Islands to the United States for the fiscal year ending June 30, 1904.

Fourth. Exportations of rice from the United States to the Philippines for the same period of time.

Answer: There were no transactions under the heads just mentioned during the fiscal year referred to.

Fifth. Importations of rice from Cuba to the United States for the fiscal year ending June 30, 1904.

Answer: The importations in question were as follows:

Rice: 119,004 pounds; value, $3,133.

Sixth. Exportations of rice from the United States to Cuba during the same period of time.

Answer: Such exports were as follows:

Rice: Domestic, 698,983 pounds; value, $19,985. Foreign, 97,175 pounds; value, $2,069. Rice flour, rice meal, and broken rice (foreign), 6,835 pounds; value, $110.

Very truly, yours,

V. H. METCALF, *Secretary.*

The rice industry in this country is confined to Louisiana, Texas, Georgia, North and South Carolina. These five States produce annually about 560,080,000 pounds of clean rice, of an aggregate value exceeding $20,000,000. Mr. C. J. Bier, president of the Louisiana and Texas Rice Millers and Distributers' Association, has furnished me with an estimate of the rice product of the States mentioned for the year 1904, from which I now quote:

For your information and in reply to your request I will state that the crop of 1904 produced in Louisiana is estimated to be 359,700,000 pounds, and in Texas 165,100,000 pounds, making a total production of the two States of 524,800,000 pounds. The product of South Carolina, Georgia, and North Carolina is estimated at 35,280,000, making the total production of rice in the United States for 1904 560,080,000. We are "up against" the overproduction that we carried over from 1903 into 1904 of 99,218,200 pounds of clean rice. The present outlook is for another carry over in 1905 of at least 40,000,000 pounds.

It is clear from the disclosure of this deplorable condition of affairs that the rice industry in the United States has reached the stage where it must extend its market, as the production now exceeds the consumption.

In addition to the value of the annual product as shown by the foregoing statement, the rice industry, particularly in Louisiana and Texas, represents the investment of many millions of dollars and is of comparatively recent growth and development. Less than fifteen years ago the prairies of southwestern Louisiana and the coastal plains of Texas were unproductive and had but little value for taxation or otherwise. To-day southwestern Louisiana and southeastern Texas have developed wonderfully in both population and wealth. As an instance, the figures from the tax assessors of two of the parishes of my district in southwestern Louisiana show a phenomenal increase in value during the last ten years, as follows:

Calcasieu Parish, assessed value of property in 1894, $7,283,475.

In 1904, $16,378,540.

Acadia Parish, assessed value in 1894, $2,199,860.

In 1904, $6,506,535.

The increase of value in the other sections mentioned are in the same proportion.

The people who have largely contributed in developing the country and increasing it in substantial wealth are entitled to fair treatment at the hands of their Government, which they are not receiving when their interests come in conflict with the colonies of this Government.

The Philippine tariff bill now under discussion even goes to the extent of increasing on May 1, 1905, the duty which has already resulted in driving us from the Philippine market. The maximum rate under the previous law on (c) rice flour g. w. per hundred kilos was $1.50. Under the proposed law it is increased to $2 per hundred kilos. The rates of duty on other alimentary substances exported into the Philippines have not been increased as has the tariff on rice. For instance, wheat, rye, and barley only pay a tariff when shipped into the archipelago of 25 cents per hundred kilos, flour 40 cents, corn 10 cents, meal 40 cents; the tariff on these articles is not changed whatever. (See class 12, articles 277 and 278 of the Philippines tariff (old law), and also the corresponding articles of the bill under discussion.)

The same discrimination is shown against those engaged in the rice industry in favor of millet, malt, hops, and table cereals, and in fact rice seems to be the principal article of food upon which the tariff is sought to be increased. (See articles 276 to 288 of the old law and the corresponding articles of the new.)

In addition to the unfortunate position now occupied by the American rice grower, he is called upon to meet another impending misfortune. This bill, judging by the vote of the committee upon several amendments offered, will in a short while be enacted into law. Then there is no doubt but what is known as the "Curtis bill" will be considered and favorably reported by the committee. The Curtis bill abolishes the duty upon all imported products of the Philippine Archipelago except sugar and tobacco, the duty upon which is reduced to 25 per cent of that fixed by the Dingley bill. Should the Curtis bill be adopted the legislative anomaly will be presented to the average American of seeing almost every article produced by the farm, the mine, and the factory taxed when he wants to sell it to his fellow-citizens of the Philippine Islands and of permitting them to sell all of their products, save the exceptions mentioned, in the United States absolutely free of any duty whatever. Paraphrasing King Agrippa, one is tempted to exclaim, "Verily thou almost persuadest me to become a Filipino."

Since the introduction of this bill I have been in correspondence with Dr. S. A. Knapp, perhaps the greatest living American authority upon rice culture in the United States and other countries, who lives in Lake Charles, my home town, and for whose information and knowledge of this subject I have the highest respect. I take the liberty of quoting from a letter recently received from him as to the conditions that the American rice grower will be compelled to meet should the Curtis bill become a law.

The Payne bill, in dealing with the Philippine tariff, provides that the duty shall be 75 cents per hundred kilos (220 pounds) on rice with the husk removed. This kind of rice would be the same as milled rice, except polishing. Now, this rate of duty in the Philippines practically amounts to 34 cents per hundred on milled rice. If the Curtis bill should pass, or anything like it, admitting rice originating in the Philippines free into the United States, it would mean that the entire crop of the Philippines could be bought up and shipped to the United States and be admitted free of duty. The freight rate from the Philippines to the United States is only about 50 cents per hundred on large cargoes. Then, the Filipinos to supply their own consumption could send to Saigon or Rangoon and import rice at 34 cents per hundred. This, you see, would be a complete subversion of our tariff, or would be a practical reduction of the tariff on rice to 34 cents per hundred. Of course, they could go further, and by fraud substitute some of the Rangoon rice and ship it to the United States; but in the case first supposed there would be no fraud, because the law would clearly point out that articles originating in the Philippines could enter the United States free of duty, and this condition would continue until May 1, 1907. The law also would clearly point out that they might import rice at 34 cents per hundred, and hence they could get the cheap rices of Rangoon or Saigon, with a freight rate of about 25 cents per hundred, and import them into the Philippine Islands on a duty of 34 cents per hundred.

I estimate that they would be able to clear on this little scheme about $1.49 per hundred pounds, and it would completely ruin the rice industry of the United States.

Mr. Chairman, it has been heralded as a new maxim of political faith and legislative guaranty that every American citizen, irrespective of creed, color, race, religion, or previous condition of servitude, shall not only be entitled to a square deal, but that he shall have it. I therefore respectfully submit that American rice growers in the States of Louisiana, Texas, Georgia, North and South Carolina are not receiving their political and legislative rights under this new dispensation. The product of their skill, labor, and industry has been discriminated against in favor of others living in different sections of this country; and in addition to this injustice they will be compelled to compete with the more-favored resident of the archipelago, who will soon have the right of a free market in the United States.

The amendment of the gentleman from Texas ought to be adopted. [Loud applause.]

Mr. PAYNE. Mr. Chairman, this is simply a proposition to deprive the Philippine Islands treasury of a hundred and fifty thousand dollars of revenue, which they got last year, because it gives no discrimination in favor of American rice, but puts us on equal keel with all rice coming from all countries. The present duty on hulled rice from the Philippine Islands is about one-fifth of a cent a pound, 50 cents for a hundred kilos, making a trifle over one-fifth of a cent a pound. The duty on hulled rice coming to the United States is 2 cents a pound, or nearly ten times as great. During 1900 there was imported from the United States into the Philippine Islands about $3,000 worth of rice. The next year there was something over $2,000 worth; in 1903, $33 worth, and last year no rice was imported from the United States into the Philippine Islands, although the production of the United States has increased wonderfully and although the importation of rice into the Philippine Islands has increased to a value of $15,000,000. It is simply a proposition to throw away that $150,000 of revenue, which the islands need. It does not amount to any more or less than that.

Mr. PUJO. Will the gentleman yield for a question?

Mr. PAYNE. Certainly.

Mr. PUJO. To what do you attribute the increased rice sales

from the United States to Porto Rico if not to the removal of the duty?

Mr. PAYNE. We are near Porto Rico. We are the nearest rice-producing country, and we have gotten up a traffic there, and we have free trade on both sides, so far as Porto Rico is concerned; but as to the Philippine Islands, they are right in the midst of rice-producing sections, and they are on the other side of the world from us. That is the difficulty.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Texas [Mr. COOPER].

The amendment was rejected.

The Clerk read as follows:

277. Wheat, rye, and barley: (a) In grain, G. W., 100 kilos, 25 cents; (b) in flour, G. W., 100 kilos, 40 cents.

Mr. COOPER of Texas. Mr. Chairman, I desire to offer an amendment to paragraph 277, and will also include it as an amendment to paragraphs 278, 282, and 283.

Mr. PAYNE. I have no objection to that. I hope they will all be included in one amendment.

Mr. COOPER of Texas. I move to strike out the tariff tax and insert in lieu of the tariff tax the words "free of duty." This will put wheat, rye, and barley upon the free list; corn and oats upon the free list; flour upon the free list; cereals prepared for table use upon the free list; bread, biscuits, and crackers upon the free list.

The CHAIRMAN. Without objection, the vote will be taken upon all of the amendments at once offered by the gentleman from Texas [Mr. COOPER].

The question was taken; and the amendments were rejected.

The Clerk read as follows:

GROUP 6.—VARIOUS.

315. Canned or potted meats, such as beef, mutton, sausage, chicken, turkey, ham, bacon, and generally all meats preserved in cans or jars, when not exceeding in value $1 per dozen cans of the weight of one-tenth of a kilogram for each can, and not exceeding in value $1.75 per dozen cans of the weight of one-fifth of a kilogram for each can, N. W., kilo, 5 cents.

Mr. COOPER of Texas. Mr. Chairman, on page 105 I move to strike out in paragraph 315, just read, the tariff tax therein, and insert in lieu thereof "free of duty," placing canned and potted meats, such as beef, mutton, sausage, and so forth, on the free list; and if it is not objected to, I move to strike out that portion of paragraph 316 which refers to tax upon canned and potted meats, and place them upon the free list; and in paragraph 317, referring to cod, herring, and sardines, salmon, and other canned fish, I move to strike out the tax proposed there, and place the same upon the free list.

The CHAIRMAN. Without objection, the vote will be taken on the amendments just offered by the gentleman from Texas [Mr. COOPER].

The question was taken, and the amendments were rejected.

The Clerk read as follows:

379. Diamonds and other precious stones in the rough, unmounted.

Mr. COOPER of Texas. Mr. Chairman, on page 116, in paragraph 379, diamonds and other precious stones in the rough, unmounted, are placed upon the free list. I want now to see if the gentlemen on the other side, who refused to put bacon and lard and food stuffs upon the free list, or manufactured goods upon the free list, will vote for this amendment, placing diamonds upon the taxable list. In this bill diamonds and other precious stones are put upon the free list. I would add to the line I have just read "diamonds and other precious stones in the rough, unmounted," "5 per cent ad valorem."

Mr. PAYNE. Mr. Chairman, the tariff laws of the United States for a great many years have provided, as this bill does, that diamonds in the rough—and that is what these are in this paragraph—shall come in free of duty. They put an ad valorem duty of 20 per cent upon diamonds that are cut, etc., or manufactured in any way. That is done in this country for two reasons: First, it promotes the cutting of diamonds here, which has become quite an industry; and in the second place, the duty imposed is all that can be collected. Otherwise the duty would be higher. But with diamonds in the rough it has been our policy to admit them free of duty, and it should be the policy of the Philippine Islands. Those people over there will yet learn to cut diamonds, so that they will have something to do besides raising sugar and rice.

Mr. COOPER of Texas. Mr. Chairman, the gentleman from New York [Mr. PAYNE] would encourage the diamond business in the Philippine Islands. He would like the Filipinos to have an opportunity to labor on diamonds that they may become skilled artisans; but when it is proposed here to aid the people of the United States by giving them wider markets and greater opportunities for the sale of the products of this country he is unwilling for those products to go upon the free list. He now exhibits a sympathy and a benevolent kindness for the people of the Philippine Islands that he has not expressed in behalf of the people of the United States.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Texas [Mr. COOPER].

The question was taken; and the amendment was rejected.

The Clerk resumed and concluded the reading of the bill.

Mr. GROSVENOR. Mr. Chairman, I ask unanimous consent to go back to page 121 for the purpose of offering an amendment required, I think, to make the language of the provision grammatical, and to express the real purpose of the bill. I move to strike out, in line 23, page 121, the words "an officer" and insert the word "person;" so that it will read "may be entered free of duty on the personal certificate of such person that they fulfill the above conditions."

The CHAIRMAN. Is there objection to returning to the paragraph named by the gentleman from Ohio? [After a pause.] The Chair hears none. The Clerk will report the amendment.

The Clerk read as follows:

Page 121, line 23, strike out the words "an officer" and insert in lieu thereof the word "person."

The question was taken; and the amendment was agreed to.

Mr. PAYNE. Mr. Chairman, on page 130, line 2, I move to insert before the word "tariff" the word "Philippine;" so that it will read "that this act shall be known and referred to as the Philippine tariff revision law of 1905."

The question was taken; and the amendment was agreed to.

Mr. PAYNE. Now, Mr. Chairman, I move that the Committee rise and report the bill with amendments to the House with the recommendation that the amendments be agreed to, and the bill as amended do pass.

The question was taken; and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SCOTT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 18965) to revise and amend the tariff laws of the Philippine Islands, and for other purposes, and had directed him to report the same back with sundry amendments with the recommendation that the amendments be agreed to, and the bill as amended do pass.

Mr. PAYNE. I move the previous question on the bill and amendments to its passage.

The SPEAKER. The gentleman from New York moves the previous question on the bill and amendments to its passage.

The question was taken; and the previous question was ordered.

The SPEAKER. Is a separate vote demanded upon any of the amendments? If not, the vote will be taken on the amendments in gross.

A separate vote was not demanded, and the amendments were agreed to in gross.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

Mr. COOPER of Texas. Mr. Speaker, I move to recommit the bill to the Committee on Ways and Means with the following instruction.

The Clerk read as follows:

I move to recommit H. R. No. 18965 with instructions to the Committee on Ways and Means to forthwith report a bill providing that cotton and cotton manufactures, iron and iron manufactures, leather and leather manufactures, wheat, flour, rice, meats, and fish shall be imported from the United States free of duty, and place the above-named articles on the free list for the Philippine Islands.

Mr. PAYNE. I move the previous question on that motion.

The question was taken, and the previous question was ordered.

Mr. COOPER of Texas. I ask for the yeas and nays on the motion to recommit.

The yeas and nays were ordered.

The question was taken; and there were—yeas 84, nays 109, answered "present" 11, not voting 179, as follows:

YEAS—84.

Aiken	Cooper, Tex.	Hitchcock	Lind
Bartlett	Cowherd	Howard	Little
Bassett	Emerich	Humphreys, Miss.	Lloyd
Beall, Tex.	Finley	Hunt	Lucking
Brantley	Fitzgerald	Johnson	McLain
Broussard	Gillespie	Jones, Va.	McNary
Burgess	Goldfogle	Kehoe	Macon
Burleson	Goulden	Keliher	Miers, Ind.
Burnett	Granger	Kitchin, Claude	Moon, Tenn.
Byrd	Gregg	Kitchin, Wm. W.	Padgett
Candler	Griggs	Kluttz	Page
Clark	Gudger	Lamb	Patterson, N. C.
Clayton	Hardwick	Lester	Pinckney
Cochran, Mo.	Heflin	Lever	Pou

Rainey	Russell	Smith, Tex.	Tate
Randell, Tex.	Ryan	Southall	Thayer
Rhea	Scudder	Spight	Thomas, N. C.
Rider	Shackleford	Stephens, Tex.	Wallace
Rixey	Sherley	Sullivan, Mass.	Webb
Robinson, Ark.	Sims	Sulzer	Williams, Ill.
Robinson, Ind.	Small	Swanson	Zenor

NAYS—109.

Allen	Foster, Vt.	Littauer	Roberts
Bede	Gaines, W. Va.	Loudenslager	Scott
Beidler	Gibson	McCarthy	Smith, Iowa
Bishop	Gillet, N. Y.	McCreary, Pa.	Smith, Wm. Alden
Boutell	Gillett, Mass.	McLachlan	Smith, N. Y.
Bowersock	Goebel	McMorran	Smith, Pa.
Brandegee	Graff	Mahon	Snapp
Brown, Wis.	Grosvenor	Mann	Southard
Burke	Hamilton	Marshall	Southwick
Burkett	Haskins	Martin	Spalding
Burton	Haugen	Miller	Stafford
Butler, Pa.	Hedge	Minor	Steenerson
Calderhead	Henry, Conn.	Mondell	Sulloway
Capron	Hill, Conn.	Moon, Pa.	Tawney
Cooper, Wis.	Hinshaw	Morrell	Tirrell
Cousins	Hogg	Mudd	Townsend
Crumpacker	Howell, N. J.	Murdock	Volstead
Currier	Hunter	Needham	Warner
Curtis	Jackson, Ohio	Norris	Warnock
Cushman	Jones, Wash.	Olmsted	Wiley, N. J.
Dalzell	Knapp	Otjen	Wilson, Ill.
Dixon	Knopf	Overstreet	Wood
Dovener	Lacey	Parker	Woodyard
Draper	Lafean	Payne	Wright
Driscoll	Landis, Chas. B.	Perkins	Young
Dunwell	Landis, Frederick	Porter	
Esch	Lawrence	Powers, Mass.	
Evans	Lilley	Reeder	

ANSWERED "PRESENT"—11.

Adams, Pa.	Gooch	Meyer, La.	Ruppert
Cassingham	Hull	Palmer	Wanger
Gilbert	McCleary, Minn.	Prince	

NOT VOTING—179.

Acheson	Davis, Minn.	Howell, Utah	Robertson, La.
Adams, Wis.	Dayton	Huff	Rodenberg
Adamson	De Armond	Hughes, N. J.	Rucker
Alexander	Deemer	Hughes, W. Va.	Scarborough
Ames	Denny	Humphrey, Wash.	Sheppard
Babcock	Dickerman	Jackson, Md.	Sherman
Badger	Dinsmore	James	Shiras
Baker	Dougherty	Jenkins	Shober
Bankhead	Douglas	Kennedy	Shull
Bartholdt	Dresser	Ketcham	Sibley
Bates	Dwight	Kinkaid	Slayden
Bell, Cal.	Field	Kline	Slemp
Benny	Fitzpatrick	Knowland	Smith, Ill.
Benton	Flack	Kyle	Smith, Ky.
Bingham	Flood	Lamar, Fla.	Smith, Samuel W.
Birdsall	Fordney	Lamar, Mo.	Snook
Bonynge	Foss	Legare	Sparkman
Bowers	Foster, Ill.	Lewis	Sperry
Bowie	Fowler	Lindsay	Stanley
Bradley	French	Littlefield	Sterling
Breazeale	Fuller	Livernash	Stevens, Minn.
Brick	Gaines, Tenn.	Livingston	Sullivan, N. Y.
Brooks	Garber	Longworth	Talbott
Brown, Pa.	Gardner, Mass.	Lorimer	Taylor
Brownlow	Gardner, Mich.	Loud	Thomas, Iowa
Brundidge	Gardner, N. J.	Lovering	Thomas, Ohio
Buckman	Garner	McAndrews	Trimble
Burleigh	Gillett, Cal.	McCall	Underwood
Butler, Mo.	Glass	McDermott	Vandiver
Caldwell	Greene	Maddox	Van Duzer
Campbell	Griffith	Marsh	Van Voorhis
Cassel	Hamlin	Maynard	Vreeland
Castor	Harrison	Morgan	Wachter
Cockran, N. Y.	Hay	Nevin	Wade
Connell	Hearst	Patterson, Pa.	Wadsworth
Conner	Hemenway	Patterson, Tenn.	Watson
Cooper, Pa.	Henry, Tex.	Pearre	Webber
Croft	Hepburn	Pierce	Weems
Cromer	Hermann	Powers, Me.	Weisse
Crowley	Hildebrant	Pujo	Wiley, Ala.
Daniels	Hill, Miss.	Ransdell, La.	Williams, Miss.
Darragh	Hitt	Reid	Williamson
Davey, La.	Holliday	Richardson, Ala.	Wilson, N. Y.
Davidson	Hopkins	Richardson, Tenn.	Wynn
Davis, Fla.	Houston	Robb	

So the motion to recommit with instructions was rejected.

The Clerk announced the following pairs:

For the session:

Mr. WANGER with Mr. ADAMSON.

Mr. PATTERSON of Pennsylvania with Mr. DICKERMAN.

Mr. SHERMAN with Mr. RUPPERT.

Mr. CASSELL with Mr. GOOCH.

Mr. DAYTON with Mr. MEYER of Louisiana.

Mr. DEEMER with Mr. SHULL.

Until Thursday next:

Mr. DRESSER with Mr. LEVER.

Mr. HOWELL of Utah with Mr. MAYNARD.

Until Wednesday next:

Mr. COOPER of Pennsylvania with Mr. LAMAR of Florida.

Until further notice:

Mr. MARSH with Mr. SULLIVAN of New York.

Mr. VAN VOORHIS with Mr. CASSINGHAM.

Mr. BINGHAM with Mr. RICHARDSON of Tennessee.

Mr. STERLING with Mr. WILSON of New York.

Mr. SAMUEL W. SMITH with Mr. SCARBOROUGH.

Mr. PEARRE with Mr. FOSTER of Illinois.

Mr. LORIMER with Mr. MCANDREWS.

Mr. SPERRY with Mr. SHEPPARD.

Mr. DAVIDSON with Mr. RANSDELL of Louisiana.

Mr. GARDNER of Michigan with Mr. TAYLOR.

Mr. PALMER with Mr. SMITH of Kentucky.

For this day:

Mr. PRINCE with Mr. GRIFFITH.

Mr. HULL with Mr. VANDIVER.

Mr. KNOWLAND with Mr. BELL of California.

Mr. FRENCH with Mr. BOWIE.

Mr. FOSS with Mr. SHOBER.

Mr. MCCLEARY of Minnesota with Mr. RICHARDSON of Alabama.

Mr. JENKINS with Mr. HILL of Mississippi.

Mr. WATSON with Mr. GARBER.

Mr. WACHTER with Mr. TALBOTT.

Mr. ADAMS of Pennsylvania with Mr. BREAZEALE.

Mr. BRADLEY with Mr. CROWLEY.

Mr. KETCHAM with Mr. SNOOK.

Mr. CONNER with Mr. PUJO.

Mr. CROMER with Mr. GAINES of Tennessee.

Mr. WADSWORTH with Mr. WILLIAMS of Mississippi.

Mr. BROWNLOW with Mr. PIERCE of Tennessee.

Mr. KYLE with Mr. LIVERNASH.

Mr. MORGAN with Mr. BADGER.

Mr. HEMENWAY with Mr. BENTON.

Mr. ALEXANDER with Mr. BANKHEAD.

Mr. BABCOCK with Mr. DE ARMOND.

Mr. ACHESON with Mr. BAKER.

Mr. ADAMS of Wisconsin with Mr. BOWERS.

Mr. BATES with Mr. BENNY.

Mr. HITT with Mr. DINSMORE.

Mr. BARTHOLDT with Mr. BRUNDIDGE.

Mr. BIRDSALL with Mr. CALDWELL.

Mr. BONYNGE with Mr. CROFT.

Mr. BROOKS with Mr. BUTLER of Missouri.

Mr. BROWN of Pennsylvania with Mr. DAVEY of Louisiana.

Mr. BUCKMAN with Mr. DAVIS of Florida.

Mr. BURLEIGH with Mr. DENNY.

Mr. CAMPBELL with Mr. DOUGHERTY.

Mr. CASTOR with Mr. FIELD.

Mr. DANIEL with Mr. FITZPATRICK.

Mr. CONNELL with Mr. FLOOD.

Mr. DARRAGH with Mr. GARNER.

Mr. DOUGLAS with Mr. GLASS.

Mr. DWIGHT with Mr. HAMLIN.

Mr. FORDNEY with Mr. HARRISON.

Mr. FOWLER with Mr. HAY.

Mr. FULLER with Mr. HENRY of Texas.

Mr. GARDNER of Massachusetts with Mr. HOUSTON.

Mr. GARDNER of New Jersey with Mr. HOPKINS.

Mr. GILLETT of California with Mr. JAMES.

Mr. GREENE with Mr. HUGHES of New Jersey.

Mr. KENNEDY with Mr. MCDERMOTT.

Mr. LOUD with Mr. LEGARE.

Mr. LITTLEFIELD with Mr. LIVINGSTON.

Mr. HUMPHREY of Washington with Mr. LINDSAY.

Mr. HUFF with Mr. LEWIS.

Mr. HOLLIDAY with Mr. LAMAR of Missouri.

Mr. HILDEBRANT with Mr. KLINE.

Mr. HEPBURN with Mr. UNDERWOOD.

Mr. LOVERING with Mr. PATTERSON of Tennessee.

Mr. LONGWORTH with Mr. MADDOX.

Mr. KINKAID with Mr. REID.

Mr. NEVIN with Mr. ROBB.

Mr. MCCALL with Mr. ROBERTSON of Louisiana.

Mr. POWERS of Maine with Mr. RUCKER.

Mr. RODENBERG with Mr. SLAYDEN.

Mr. SIBLEY with Mr. SPARKMAN.

Mr. SLEMP with Mr. STANLEY.

Mr. SMITH of Illinois with Mr. TRIMBLE.

Mr. THOMAS of Iowa with Mr. WADE.

Mr. STEVENS of Minnesota with Mr. VAN DUZER.

Mr. THOMAS of Ohio with Mr. WEISSE.

Mr. VREELAND with Mr. WILEY of Alabama.

Mr. WEEMS with Mr. WYNN.

Mr. HUGHES of West Virginia with Mr. GILBERT.

Mr. BRICK with Mr. COCKRAN of New York.

The result of the vote was then announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the bill was passed.

On motion of Mr. PAYNE, a motion to reconsider the last vote was laid on the table.

CONFERENCE REPORT ON ARMY APPROPRIATION BILL.

Mr. HULL. Mr. Speaker, I present a conference report and statement on the bill (H. R. 17473) making appropriations for the support of the Army for the fiscal year ending June 30, 1906, and for other purposes, to be printed under the rule.

The SPEAKER. The report and statement will be printed under the rule.

HANNAH S. CRANE.

Mr. GRAFF. Mr. Speaker, I present a conference report on the bill (H. R. 10558) referring the claim of Hannah S. Crane and others to the Court of Claims, with the statement, to be printed under the rule.

The SPEAKER. The report and statement will be printed under the rule.

RIVER AND HARBOR BILL.

Mr. BURTON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the purpose of considering the bill H. R. 18809, the river and harbor bill, and pending that motion I ask unanimous consent that general debate be limited to two hours.

The SPEAKER. The gentleman from Ohio moves that the House resolve itself into Committee of the Whole House on the state of the Union for consideration of the river and harbor bill, and pending that asks unanimous consent that general debate be limited to two hours. Is there objection?

There was no objection.

The motion of Mr. BURTON was then agreed to; accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. WM. ALDEN SMITH in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 18809, and the Clerk will read the bill.

Mr. BURTON. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. BURTON. Mr. Chairman, I move that the committee do now arise.

The motion was agreed to; accordingly the committee rose, and the Speaker having resumed the chair, Mr. WM. ALDEN SMITH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 18809, the river and harbor bill, and had come to no resolution thereon.

BILLINGS LAND DISTRICT, MONTANA.

Mr. DIXON. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 18862) to provide for a land district in Yellowstone and Carbon counties, in the State of Montana to be known as the Billings land district.

The Clerk read the bill, as follows:

Be it enacted, etc., That all that portion of the State of Montana included within the present boundaries of Yellowstone and Carbon counties is hereby constituted a new land district, to be called the Billings land district, and that the land office for said district shall be located at Billings, in said Yellowstone County.

The following amendments recommended by the committee were read:

After the word counties, in line 4, insert the following words: "and all that portion of the ceded and unceded part of the Crow Indian Reservation lying within the limits of Rosebud County."

Amend the title so as to read: "A bill to provide for a land district in Yellowstone, Rosebud, and Carbon counties, in the State of Montana, to be known as the Billings land district."

The SPEAKER. Is there objection?

There was no objection.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time; was read the third time, and passed.

AUDITING THE ACCOUNTS OF CERTAIN INDIANS.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 187, providing for the appointment of an auditing board in the Choctaw and Chickasaw nations, Ind. T.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of a joint resolution which the Clerk will read.

The Clerk read as follows:

Resolved, etc., That a committee of five, one of whom shall be a citizen of the Choctaw Nation recommended by the principal chief, one of whom shall be a citizen of the Chickasaw Nation recommended by the governor, shall be appointed by the President and under the name and title of the Choctaw-Chickasaw Auditing Commission.

That said Commission shall investigate all of the books, records, and files of the national governments of the Choctaw and Chickasaw nations of Indians and shall, prior to the convening of the next session of Congress, report to the President, the Secretary of the Interior, and to Congress the following facts:

First. The indebtedness of each of said governments on June 30, 1905.

Second. The income of said governments from which the said indebtedness can be paid prior to the dissolution of the same by operation of law on March 4, 1906.

Third. The liability of the United States as to the payment of any such indebtedness and the reasons therefor, if any.

Fourth. The legality of any such indebtedness, together with their judgment as to whether the same is fraudulent in character, was collected or charged without just or legal consideration, and an itemized statement of the causes therefor, and the parties to whom indebted.

To further submit a statement as to the amounts expended since the negotiation of the Atoka agreement, as contained in the act of June 28, 1898, together with the purposes for which said money is expended, the names of the parties to whom paid, and the sources from which the same was collected; and if it shall appear that any funds have been collected contrary to law, or that any moneys have been collected and not properly accounted for, to further report upon the liability of the parties or of the national government of said nations with regard thereto.

To also submit a statement showing the location and approximate value of all property belonging to said nations now used for educational purposes, together with the statement as to its value and availability for the use of public schools under the changed conditions which will follow the dissolution of the tribal governments on March 4, 1906.

That pending the report of said Commission no payments shall be made from the funds of said nation or from the funds of the United States on the account of said nations, except the regular expenses of maintaining the tribal governments, not to exceed $50,000, and also excepting any per capita payments ordered by the Secretary of the Interior under the provision of the agreements heretofore made with said nation, and also excepting appropriations for the fulfillment of treaty stipulations provided for in treaties or agreements made prior to April 28, 1898.

That the chairman and secretary of said Commission shall be appointed by the President of the United States, and that the chairman shall have the power to administer oaths, to adopt and use a seal, and to issue process to procure the attendance of witnesses, books, records, or papers to enable said Commission to perform the duties hereby charged upon them. And the judge of the district court of any district in the Indian Territory shall, upon complaint in writing made by said Commission or any member thereof, on proof made, punish for contempt of said process, or contempt of the orders of said Commission, the same as though committed in his court, and full jurisdiction for said purpose is hereby conferred.

That the marshals of the Indian Territory shall execute any and all processes and be allowed the usual fees allowed in the United States court cases.

That each of said commissioners shall receive the sum of $10 per day and their actual expenses while engaged in the actual discharge of their duties, one half to be paid by said Indian governments and the remainder by the United States.

The following committee amendments were read:

Amend the title so as to read: "Providing for auditing the accounts of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes of Indians in the Indian Territory."

Page 1, strike out all of lines 3 to 8, inclusive, and insert in lieu thereof the following:

"That a committee of three shall be appointed by the President under the name and title of the Auditing Committee of the Five Civilized Tribes."

In line 11, page 1, strike out the word "and" where it first appears in said line, and after the word "Chickasaw" insert "Cherokee, Creek, and Seminole."

On page 3, line 9, after the word "nations," insert the following: "except necessary expenses for the maintenance of the tribal schools and funds for the payment by the Secretary of the Interior of their school indebtedness heretofore contracted, for which warrants have been issued."

In line 16, page 3, strike out the word "April" and insert in lieu thereof the word "June."

At the end of line 17, on page 3, add the following:

"*Provided*, That nothing in this resolution shall apply to or be construed as either validating or invalidating the claim of Mansfield, McMurray & Cornish, or as authorizing or preventing the payment of their claim, for which warrants have been drawn pursuant to a judgment or finding of the Choctaw and Chickasaw citizenship court."

After the word "State," on page 4, line 7, add the word "court."

The SPEAKER. Is there objection to present consideration?

Mr. BURKETT. Mr. Speaker, I have been trying to find some one who knows something about this joint resolution. I have been unable to so. It seems to me that it is too long a bill, with too many provisions, to take up at this late hour.

Mr. STEPHENS of Texas. Mr. Speaker, I think I can explain to the gentleman so that he will withdraw his objection. This bill comes from the Committee on Indian Affairs and is a unanimous report from that committee. I know of no objection to it. The Secretary of the Interior and the Commissioner of Indian Affairs are very anxious for the passage of the bill. These tribes go out of existence this next year, and it is necessary that the Government should have an accounting before they pass out of existence as tribal governments, because our Government assumes the liabilities of these tribal governments. We want the work done before the meeting of Congress next December, so that appropriate legislation can be had by Congress.

The SPEAKER. Is there objection?

Mr. BURKETT. I object, Mr. Speaker.

UNION AND CONFEDERATE BATTLE FLAGS.

Mr. CAPRON. Mr. Speaker, at the request of the gentleman from Virginia [Mr. LAMB], and on my own behalf, I ask unanimous consent for the present consideration of House joint reso-

lution 217, to return to the proper authorities certain Union and Confederate battle flags, which I send to the desk and ask to have read.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the resolution.

The Clerk read as follows:

Resolved, etc., That the Secretary of War be, and he is hereby, authorized to deliver to the proper authorities of the respective States in which the regiments which bore these colors were organized certain Union and Confederate battle flags now in the custody of the War Department, for such final disposition as the aforesaid proper authorities may determine.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, read the third time, and passed. [Applause.]

On motion of Mr. CAPRON, a motion to reconsider the last vote was laid on the table.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills and joint resolution:

H. R. 8834. An act granting an increase of pension to Joseph H. Richardson;

H. R. 14575. An act granting an increase of pension to Laura P. Swentzel;

H. R. 15489. An act granting an increase of pension to Oliver F. Martin;

H. R. 15718. An act granting an increase of pension to James Parmele;

H. R. 16398. An act granting an increase of pension to Michael Keating;

H. R. 16629. An act granting an increase of pension to Nathan C. D. Bond;

H. R. 16686. An act granting an increase of pension to Benjamin T. Martin;

H. R. 16859. An act granting an increase of pension to James Shaw;

H. R. 16961. An act granting an increase of pension to Lydia McCardell;

H. R. 17411. An act granting an increase of pension to Abel Grovenor;

H. R. 18187. An act granting an increase of pension to William W. Moore;

H. R. 18188. An act granting an increase of pension to William Mock;

H. R. 12479. An act granting an increase of pension to Lucretia T. Cartmell;

H. R. 18512. An act granting a pension to Mary O'Dea.

H. R. 9548. An act for the allowance of certain claims reported by the Court of Claims, and for other purposes;

H. R. 13626. An act to amend an act approved August 13, 1894, entitled "An act for the protection of persons furnishing materials and labor for the construction of public works;" and

H. J. Res. 216. Joint resolution providing for the publication of the annual reports and bulletins of the hygienic laboratory and of the yellow-fever institute of the Public Health and Marine-Hospital Service.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 15305. An act granting a pension to Isaac F. Clayton;

H. R. 18785. An act to promote the security of travel upon railroads engaged in interstate commerce, and to encourage the saving of life; and

H. R. 17331. An act relating to a dam across the Rainy River.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 63. An act for the relief of Charles Stierlin;

S. 2354. An act to authorize the promotion of Lieut. Thomas Mason, Revenue-Cutter Service;

S. 4066. An act for the relief of Leonard I. Brownson;

S. 5771. An act to reinstate Francis S. Nash as a surgeon in the Navy;

S. 5902. An act for the relief of the Central Railroad Company of New Jersey;

S. 6351. An act granting an increase of pension to Martin F. Cross;

S. 6733. An act for the relief of M. L. Skidmore; and

S. 5337. An act for the relief of Jacob Lyon.

SENATE BILL REFERRED.

Under clause 2 of Rule XIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 7164. An act permitting the building of a railway bridge across White River, joining the township of Harrison, in Knox County, State of Indiana, and township of Washington, in Pike County, State of Indiana—to the Committee on Interstate and Foreign Commerce.

AMERICAN ACADEMY IN ROME.

Mr. McCLEARY of Minnesota. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 19052) to incorporate the American Academy in Rome, which I send to the desk and ask to have read.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to have an explanation.

Mr. McCLEARY of Minnesota. Mr. Speaker, this bill is for the incorporation of the American Academy in Rome. It is wholly an educational institution, to be supported wholly by private funds, and it asks for nothing from the United States Government. No official of the United States Government is eligible for membership on its board of incorporators or its board of directors. It is to be incorporated by private subscription. The purpose is to give it a certain standing in the city of Rome, which is the center of art, which will be of advantage to the student attending under the auspices of this association.

Mr. PAYNE. What does this bill do?

Mr. FITZGERALD. Mr. Speaker, I think I shall ask to have the bill reported.

Mr. McCLEARY of Minnesota. The headquarters of the institution are to be in Washington, but it is authorized to hold property in Rome.

Mr. PAYNE. How long will it be before it will want Congress to appropriate money for its support?

Mr. McCLEARY of Minnesota. It will never ask Congress to do that, Mr. Speaker, because it is expressly provided in section 4 of the bill that under no circumstances shall the United States be liable for any obligation incurred by this corporation.

Mr. MANN. Why do they seek incorporation from the General Government?

Mr. McCLEARY of Minnesota. Because it will carry prestige for their institution in Rome, and will secure for the students of the institution access to certain art works that are now inaccessible to private students.

Mr. BARTLETT. Where is its principal place of business to be located—its office?

Mr. McCLEARY of Minnesota. Washington, D. C.

Mr. MANN. Would it not have the same effect if it were incorporated under some one of the general incorporation acts of the States?

Mr. McCLEARY of Minnesota. Those who are interested tell me it will not; that the foreign countries know nothing about the States, but they do know about the United States.

Mr. FITZGERALD. Why could not this institution be incorporated under the general act?

Mr. MANN. Mr. Speaker, it seems to me that this is a matter we ought to have a chance to more fully consider. I therefore object.

BRIDGE ACROSS RAINY RIVER, MINNESOTA.

Mr. BEDE. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 18751) to extend the time for the construction of a bridge across Rainy River by the International Bridge and Terminal Company, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the International Bridge and Terminal Company, its successors and assigns, shall have the right to commence the construction of a bridge across Rainy River, in Minnesota, subject to the terms and conditions contained in an act entitled "An act to provide for the construction of a bridge across Rainy River, in Minnesota," approved February 7, 1903, within three years, and complete such bridge within five years after the passage of this act.

The Clerk read the following committee amendments:

In line 9 strike out the words "three years" and insert "one year."
In line 10 strike out the word "five" and insert the word "three."

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, read the third time, and passed.

On motion of Mr. BEDE, a motion to reconsider the last vote was laid on the table.

PARK IN BARTLETT LAKE, MINNESOTA.

Mr. BEDE. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 11218) setting aside a certain island in Bartlett Lake, Minnesota, as a park and forest reserve, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That there is hereby set aside from the public domain and granted to the village of Northome, in the county of Itasca and State of Minnesota, for the use of the public as a park and forest reserve, that certain island in Bartlett Lake, situate in the southwest quarter of the southwest quarter of section 20, township 151 north, range 28 west, fifth principal meridian, Minnesota, containing 1 acre, more or less; and that whenever said village of Northome shall fail to maintain same for that purpose, or shall fail to accept same for said purpose, the title thereto shall pass to the State of Minnesota and be vested in the State forestry board as part of the State forest reserves. The provisions of this act shall be carried into effect under such rules and regulations as may be prescribed by the Secretary of the Interior.

The following committee amendments were read:

In lines 4 and 5 strike out the words "village of Northome, in the county of Itasca and."

In lines 10 and 11 strike out the words "said village of Northome" and insert the words "the State of Minnesota."

In line 12 strike out the words "or shall fail to accept same for said purpose."

Page 2, lines 1, 2, and 3, strike out the words "pass to the State of Minnesota and be vested in the State forestry board as part of the State forest reserves" and insert "revert to the United States."

Mr. FITZGERALD. What is the effect of these amendments?

Mr. BEDE. Instead of giving the island to the village this gives it to the State and the State turns it over to the village for park purposes.

Mr. FITZGERALD. Reported unanimously?

Mr. BEDE. Yes.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question was taken; and the amendments were agreed to.

The bill as amended was ordered to be engrossed for a third reading; and was read the third time, and passed.

On motion of Mr. BEDE, a motion to reconsider the last vote was laid on the table.

Mr. LITTLE. Mr. Speaker, I call for the regular order.

The SPEAKER. The gentleman from Arkansas demands the regular order.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 37 minutes p. m.) the House adjourned to meet to-morrow at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting a copy of a petition from tobacco operatives in Manila praying for a modification of tariff rates—to the Committee on Ways and Means, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting a recommendation for the relief of John W. McHarg—to the Committee on Claims, and ordered to be printed.

A letter from the Secretary of the Treasury, calling attention to a recommendation for an appropriation to construct a customs office at Port Eads—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, submitting an estimate of appropriation for temporary accommodation of customs officials at San Francisco—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18906) authorizing the construction of two bridges across the Ashley River, in the counties of Charleston and Dorchester, S. C., reported the same without amendment, accompanied by a report (No. 4797); which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 19026) permitting the building of a dam across the Mississippi River near the village of Bemidji, Beltrami County, Minn., reported the same with amendment, accompanied by a report (No. 4798); which said bill and report were referred to the House Calendar.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 19013) to amend an act entitled "An act to authorize the board of commissioners for the Connecticut bridge and highway district to construct a bridge across the Connecticut River at Hartford, in the State of Connecticut," reported the same with amendment, accompanied by a report (No. 4799); which said bill and report were referred to the House Calendar.

Mr. CHARLES B. LANDIS, from the Committee on Printing, to which was referred the Senate joint resolution (S. R. 70) to provide for the printing of the report of the Anthracite Coal Strike Commission, appointed by the President of the United States at the request of certain coal operators and miners, reported the same without amendment, accompanied by a report (No. 4800); which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ESCH, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 2692) to establish a life-saving station at Nome, Alaska, reported the same without amendment, accompanied by a report (No. 4801); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BUCKMAN, from the Committee on Insular Affairs, to which was referred the bill of the Senate (S. 6522) to enable independent school district No. 12, Roseau County, Minn., to purchase certain lands, reported the same without amendment, accompanied by a report (No. 4802); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SHERMAN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 13675) for the conveyance of public lands belonging to the United States, reported the same with amendment, accompanied by a report (No. 4803); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WANGER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 17941) to provide for the construction of a light-house and fog signal at Diamond Shoal, on the coast of North Carolina, reported the same with amendment, accompanied by a report (No. 4809); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HAY, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 3478) making provision for conveying in fee the piece or strip of ground in St. Augustine, Fla., known as "The Lines," for school purposes, reported the same with amendment, accompanied by a report (No. 4810); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. LACEY, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 18752) for the resurvey of certain townships in the counties of Rock and Brown, in the State of Nebraska, reported the same with amendment, accompanied by a report (No. 4811); which said bill and report were referred to the House Calendar.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill H. R. 115 and sundry other bills, reported in lieu thereof a bill (H. R. 19081) to authorize additional aids to navigation in the Light-House Establishment, accompanied by a report (No. 4812); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LOUDENSLAGER, from the Committee on Pensions, to which was referred the bill of the Senate (S. 202) granting a pension to Harriet E. Penrose, reported the same with amendment, accompanied by a report (No. 4813); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6701) granting a pension to Charles B. Spencer, reported the same without amendment, accompanied by a report (No. 4814); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. BROUSSARD, from the Committee on Military Affairs, to which was referred House Document No. 267 for the relief of Capt. Edward I. Grumley, reported the same adversely, accompanied by a report (No. 4804); which said document and report were ordered laid on the table.

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 1619) for the relief of William H. Hugo, reported the same adversely, accompanied by a report (No. 4805); which said bill and report were ordered laid on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 6330) to authorize the President of the United States to appoint William F. de Niedman captain and quartermaster in the Army, reported the same adversely, accompanied by a report (No. 4806); which said bill and report were ordered laid on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 14982) to correct and amend the military record of Alexander McDonald, of Company I, Seventeenth Wisconsin Volunteer Infantry, reported the same adversely, accompanied by a report (No. 4807); which said bill and report were ordered laid on the table.

Mr. YOUNG, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 18223) to authorize the restoration of the name of Charles P. Kerny, late captain, Porto Rico Provisional Regiment of Infantry, to the rolls of the Army and providing that he be placed on the list of retired officers, reported the same adversely, accompanied by a report (No. 4808); which said bill and report were ordered laid on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Naval Affairs was discharged from the consideration of the bill (H. R. 19072) for the relief of the heirs of B. T. Terry, deceased, and the same was referred to the Committee on War Claims.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. MANN, from the Committee on Interstate and Foreign Commerce: A bill (H. R. 19081) to authorize additional aids to navigation in the Light-House Establishment—to the Union Calendar.

By Mr. DIXON: A bill (H. R. 19094) to appropriate money for the completion of classification of lands included within the Northern Pacific Railway land grant—to the Committee on Appropriations.

By Mr. BROWNLOW: A concurrent resolution (H. C. Res. 77) for the printing and binding of 3,000 copies of a special Congressional Directory, and for other purposes—to the Committee on Printing.

By Mr. WACHTER (by request): A resolution (H. Res. 521) inquiring into the management of the office of the superintendent of insurance of the District of Columbia and the qualifications of the present incumbent for the performance of the duties of the office, etc.—to the Committee on Rules.

By Mr. MORRELL: A resolution (H. Res. 522) directing the Clerk of the House to pay D. P. Thomas a certain amount of money—to the Committee on Accounts.

By the SPEAKER: Memorial from the legislative assembly of the State of Kansas, asking that the "Foster lease" of the Osage lands in the Indian Territory be annulled, etc.—to the Committee on Indian Affairs.

By Mr. CAMPBELL: Memorial from the legislative assembly of Kansas, requesting action by Congress controlling the Standard Oil Company—to the Committee on Interstate and Foreign Commerce.

By Mr. MILLER: Memorial from the legislative assembly of the State of Kansas, asking Congress to perfect such legislation as will control the Standard Oil Company and protect the oil industry in Kansas—to the Committee on Interstate and Foreign Commerce.

By Mr. BOWERSOCK: Memorial from the legislative assembly of the State of Kansas, favoring legislation to regulate the Standard Oil Company—to the Committee on Interstate and Foreign Commerce.

By Mr. REEDER: Memorial from the legislative assembly of Kansas, asking Congress to take action looking to the control of the Standard Oil Company—to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. AMES. A bill (H. R. 19082) granting an increase of pension to Silas J. Richardson—to the Committee on Invalid Pensions.

By Mr. BEALL of Texas (by request): A bill (H. R. 19083) for the relief of James G. Clay—to the Committee on Military Affairs.

By Mr. FRENCH. A bill (H. R. 19084) granting an increase of pension to Hannah C. Reese—to the Committee on Pensions.

By Mr. GARDNER of New Jersey: A bill (H. R. 19085) granting a pension to Anna J. Randolph—to the Committee on Invalid Pensions.

Also, a bill (H. R. 19086) granting a pension to Laura L. Burke—to the Committee on Invalid Pensions.

By Mr. JACKSON of Maryland: A bill (H. R. 19087) for the relief of Pay Inspector Worthington Goldsborough, United States Navy—to the Committee on Military Affairs.

By Mr. LITTLE: A bill (H. R. 19088) to remove the charge of desertion from the military record of Charles Phillips—to the Committee on Military Affairs.

By Mr. McDERMOTT: A bill (H. R. 19089) granting a pension to Ellen Ramsay—to the Committee on Invalid Pensions.

By Mr. SULLIVAN of New York: A bill (H. R. 19090) to correct the military record of James A. Lessey, alias Lasey or Lacy—to the Committee on Military Affairs.

By Mr. TALBOTT: A bill (H. R. 19091) granting an increase of pension to William H. Uhler—to the Committee on Invalid Pensions.

By Mr. WILSON of Illinois: A bill (H. R. 19092) granting an increase of pension to Jacob Meier—to the Committee on Invalid Pensions.

Mr. PATTERSON of Tennessee: A bill (H. R. 19093) granting a pension to Anna Koch—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition of W. A. Rumbaugh et al., of Pennsylvania, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. ALLEN: Petition of Alfred S. Dunning and 14 other citizens of Maine, against repeal of the Grout oleomargarine law—to the Committe on Agriculture.

Also, petition of Alfred S. Dunning and 14 other citizens of Maine, favoring a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. BABCOCK: Petition of the Kansas State Temperance Union, asking for passage of bill H. R. 4072—to the Committee on the Judiciary.

By Mr. BEALL of Texas: Paper to accompany bill for relief of James G. Clay—to the Committee on Military Affairs.

By Mr. BISHOP: Petition of Manton Grange, of Wexford County, Mich., against repeal of the Grout oleomargarine law—to the Committee on Agriculture.

Also, petition of Mason Grange, No. 415, of Ludington, Mich., against repeal of the Grout oleomargarine law—to the Committee on Agriculture.

By Mr. BURKETT: Petition of citizens of Collegeview, Nebr., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the Nebraska Federation of Commercial Clubs, against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Republican county convention of Platte County, Nebr., favoring the postal telephone bill—to the Committee on the Post-Office and Post-Roads.

By Mr. BURLEIGH: Petition of citizens of Maine, against repeal of the Grout law—to the Committee on Agriculture.

Also, petition of citizens of Harmony, Me., favoring a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. BUTLER of Pennsylvania: Petition of Edwin P. Sellew et al., against further armament—to the Committee on Military Affairs.

By Mr. CROMER: Petition of citizens of Anderson, Ind., against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. EMERICH: Petition of the Heath & Milligan Manufacturing Company, of Chicago, favoring the original or Long-Lodge bill relative to the consular service—to the Committee on Foreign Affairs.

Also, petition of Hibbard, Spencer, Bartlett & Co., of Chicago, Ill., favoring legislation on railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Aermotor Company, of Chicago, favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Olbrich & Goelbreek, of Chicago, Ill., favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Lord & Bushnell Company, of Chicago, favoring the passage of the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of B. Heller & Co., of Chicago, favoring bill H. R. 9303—to the Committee on Ways and Means.

Also, petition of the American Luxfer Prism Company, of Chicago, favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Armstrong Cork Company, of Chicago, favoring more power for the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Illinois Malleable Iron Company, favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Marshall Field & Co., of Chicago, favoring the long-form Lodge bill for the reorganization of the consular service—to the Committee on Foreign Affairs.

Also, petition of Hibbard, Spencer, Bartlett & Co., favoring bill H. R. 15600—to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Paper to accompany bill for relief of Electa E. Brooks, of Lynn, Wis.—to the Committee on Pensions.

By Mr. FITZGERALD: Petition of the American Institute of Marine Underwriters of New York, favoring bill S. 2262—to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of the National Association of Agricultural Implement and Vehicle Manufacturers, favoring repeal of the commutation clause of the homestead act, the timber and stone act, and the desert-land law—to the Committee on the Public Lands.

Also, petition of the Atlantic Carriers' Association, asking relief from unjust discrimination against sail vessels engaged in the coasting trade—to the Committee on the Merchant Marine and Fisheries.

By Mr. GOLDFOGLE: Petition of the Atlantic Carriers' Association, asking for the abolition of compulsory pilotage—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Ex-Letter Carriers' Association, of Philadelphia, favoring bill for the adjustment and payment of letter carriers under the eight-hour law—to the Committee on the Post-Office and Post-Roads.

Also, petition of Hodensyl & Sons, of New York, against repeal of the bankruptcy act—to the Committee on the Judiciary.

Also, petition of Walter N. Walker, of New York, against repeal of the bankruptcy law—to the Committee on the Judiciary.

Also, petition of the American Institute of Marine Underwriters, of New York, favoring bill S. 2262—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Maritime Association of New York City, asking for passage of a bill for the construction of a vessel to remove derelicts in the North Atlantic Ocean—to the Committee on Interstate and Foreign Commerce.

By Mr. HAMILTON: Petition of citizens of Barry County, Mich., favoring the Gallinger-Stone amendment to statehood bill—to the Committee on the Territories.

By Mr. LITTLEFIELD: Petition of 84 citizens of Maine, against repeal of the Grout oleomargarine law—to the Committee on Agriculture.

Also, petition of 140 citizens of Maine, favoring a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. McCALL: Petition of the Massachusetts State Board of Trade, asking for repeal of the tax of 15 per cent ad valorem on hides imported into the United States—to the Committee on Ways and Means.

Also, petition of Christian Endeavor societies to authorize the President to invite the governments of the world to join in establishing an international congress to deliberate upon questions of common interest to the nations and to make recommendations thereon to the governments—to the Committee on Foreign Affairs.

By Mr. SCOTT: Petition of the Kansas State Temperance Union, favoring passage of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. SHOBER: Petition of citizens of New York State, against religious legislation for the District of Columbia—to the Committee on the District of Columbia.

By Mr. SULLIVAN of Massachusetts: Petition of the Massachusetts Associated Board of Trade, favoring repeal of the duty on hides—to the Committee on Ways and Means.

By Mr. SULLIVAN of New York: Petition of the mayor of New York City, suggesting an amendment to sections 4281–4289, inclusive, of the Revised Statutes of the United States—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the American Federation of Musicians, for increase of pay for the Marine Band—to the Committee on Naval Affairs.

Also, petition of the American Hardware Manufacturers' Association, for repeal of the desert-land act, the timber and stone act, and the commutation clause of the homestead act—to the Committee on the Public Lands.

Also, petition of the Congress of the Knights of Labor, urging passage of the bill to prevent adulteration of drugs—to the Committee on Agriculture.

Also, petition of the Clothiers' Association of New York, against repeal of the bankruptcy law—to the Committee on the Judiciary.

By Mr. WEBBER: Petition of the Oberlin Board of Commerce, for provision by Congress for absolute security of national banks by authorizing the Comptroller of the Currency to make the necessary assessments on national banks in order to guarantee their deposits and to supply deficiencies of assets in case of failure—to the Committee on Banking and Currency.

SENATE.

WEDNESDAY, *February 22, 1905.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. EDWARD E. HALE, offered the following prayer:

*Who raised up the righteous man, * * * called him to his foot, gave the nations before him, and made him rule over kings? He gave them as dust to his sword, and as driven stubble to his bow. Who hath wrought and done it? * * * I, the Lord, the first, and with the last, I am He.*

Even so, Father; and on this day, sacred to the memory of the father of this nation, we thank Thee that Thou didst lead him forth from the people to be ruler of the nation, to give to it its life, its independence, its new light before Thee. We thank Thee for the past—yes, and for to-day. We ask Thee to renew this gift to children and to children's children, to the people who know him as first in war, first in peace, and first in the hearts of his countrymen; that Thou wilt be with the boys and girls, the men and women, who celebrate his birth to-day; that Thou wilt be with them for to-morrow and for the days that are to come, that they may walk in the way of righteousness, that they may look first to Thee and last to Thee, the Lord God, who leads the nations of the world.

And in this temple of Thine own Holy Spirit, in this Capitol of the nation, made sacred to Thee by the prayers of the brave men of the past, of the wise men of the past, for the men of to-day and for the men of the future, we ask Thee to consecrate it anew to Thy holy presence, to the memories of him who loved his country better than himself, and to the memories of all those who have made this nation under God what it is.

Be with us all, and be with us always.

Our Father who art in heaven, hallowed be Thy name. Thy kingdom come, Thy will be done, on earth as it is done in heaven. Give us this day our daily bread. Forgive us our trespasses as we forgive those who trespass againt us. Lead